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# **An Overview of the Colorado Adult Criminal Justice System**

**Report to the  
COLORADO  
GENERAL ASSEMBLY**

**Colorado Legislative Council  
Research Publication No. 414  
February 1996**

## ACKNOWLEDGEMENTS

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*effective intervention strategies*

## ACRONYM LISTING

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<b>ADP</b>	— Average Daily Population
<b>C.R.S.</b>	— Colorado Revised Statutes
<b>DCJ</b>	— Division of Criminal Justice
<b>DOC</b>	— Department of Corrections
<b>DRDC</b>	— Denver Reception and Diagnostic Center
<b>DYS</b>	— Division of Youth Services
<b>GED</b>	— General Educational Development (tests), general equivalency diploma
<b>H.B.</b>	— House Bill
<b>ISP</b>	— Intensive Supervision (Probation or Parole)
<b>JBC</b>	— Joint Budget Committee
<b>LCS</b>	— Legislative Council Staff
<b>NA</b>	— Not Applicable
<b>S.B.</b>	— Senate Bill
<b>YOS</b>	— Youthful Offender System

## **Chapter 1 — Adult Offender System Overview**

Three departments within the Colorado State Government are responsible for the oversight and supervision of adult offenders:

- the Department of Corrections (DOC) manages the state's adult correctional facilities and the adult parole system;
- the Office of Probation Services, Judicial Branch, supervises the state's probation population; and
- the Department of Public Safety, Division of Criminal Justice, administers the state's community corrections program.

The following is an overview of the population served by each department and, where appropriate, the services provided.

## ADULT OFFENDER POPULATION OVERVIEW

The purpose of this section is to provide a summary and overview of the total adult offender population. This includes prison, parole, probation, and community corrections. The overview is only provided through FY 1994-95, as that is the most recently completed fiscal year. Since FY 1985-86, the total adult offender population grew by 86.8 percent, from 24,188 offenders in FY 1985-86 to 45,191 offenders in FY 1994-95. Based upon a cumulative percentage increase, the fastest growing segment has been the community corrections population. This population grew 180.2 percent, from 909 offenders in FY 1985-86 to 2,547 offenders in FY 1994-95. The prison population ranked second in growth, increasing 160.6 percent over the time period, from 3,733 offenders to 9,727 offenders in FY 1994-95.

However, looking only at the numerical increase of total offenders, the probation population experienced the largest growth. Probation grew from 16,335 offenders in FY 1985-86, to 30,891 offenders in FY 1994-95, an increase of 14,556 offenders. Again, the persons incarcerated to prison was next, growing by 5,994 offenders from FY 1985-86 to FY 1994-95. Table 1.1 summarizes the total adult offender population. The parole population decreased over the ten-year period. However, with the implementation of mandatory parole in House Bill 93-1302, that population is projected to increase substantially in the near future, to a caseload of 5,833 by the end of FY 2000-01.

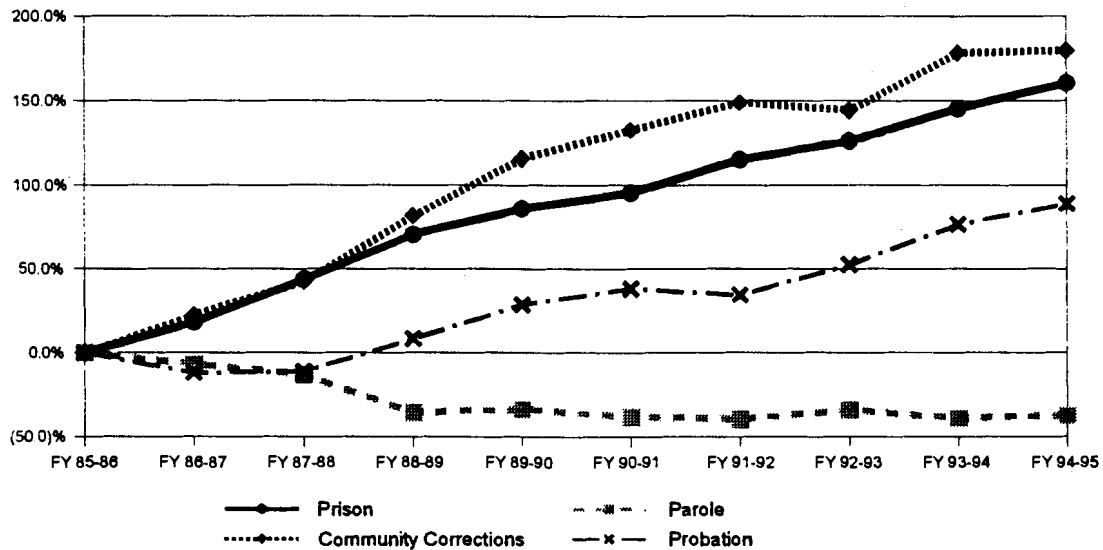
**Table 1.1: Adult Offender Population Overview, FY 1985-86 to FY 1994-95**

	Prison	Parole	Probation	Community Corrections	Total
<b>FY 85-86</b>	3,733	3,211	<b>16,335</b>	909	24,188
Cum. % Inc.	NA	NA	NA	NA	NA
<b>FY 86-87</b>	4,412	2,989	14,456	1,112	22,969
Cum. % Inc.	18.2%	(6.9)%	(11.5)%	22.3%	(5.0)%
<b>FY 87-88</b>	5,371	2,796	14,532	1,296	23,995
Cum. % Inc.	43.8%	(12.9)%	(11.0)%	42.6%	(0.8)%
<b>FY 88-89</b>	6,360	2,073	17,728	1,653	27,814
Cum. % Inc.	70.4%	(35.4)%	8.5%	81.9%	15.0%
<b>FY 89-90</b>	6,952	2,137	21,023	1,962	32,074
Cum. % Inc.	86.2%	(33.5)%	28.7%	115.8%	32.6%
<b>FY 90-91</b>	7,200	1,000	22,567	2,115	33,071
Cum. % Inc.	95.5%	(38.0)%	38.2%	132.7%	40.5%
<b>FY 91-92</b>	8,037	1,943	21,966	2,264	34,210
Cum. % Inc.	115.3%	(39.5)%	34.5%	149.1%	41.4%
<b>FY 92-93</b>	8,451	(34.1)%	24,965	2,221	37,753
Cum. % Inc.	126.4%		52.8%	144.3%	56.1%
<b>FY 93-94</b>	9,164	1,958	28,836	2,533	42,491
Cum. % Inc.	145.5%	(39.0)%	76.5%	178.7%	75.7%
<b>FY 94-95</b>	9,727	2,026	30,891	2,547	45,191
Cum. % Inc.	160.6%	(36.9)%	89.1%	180.2%	86.8%

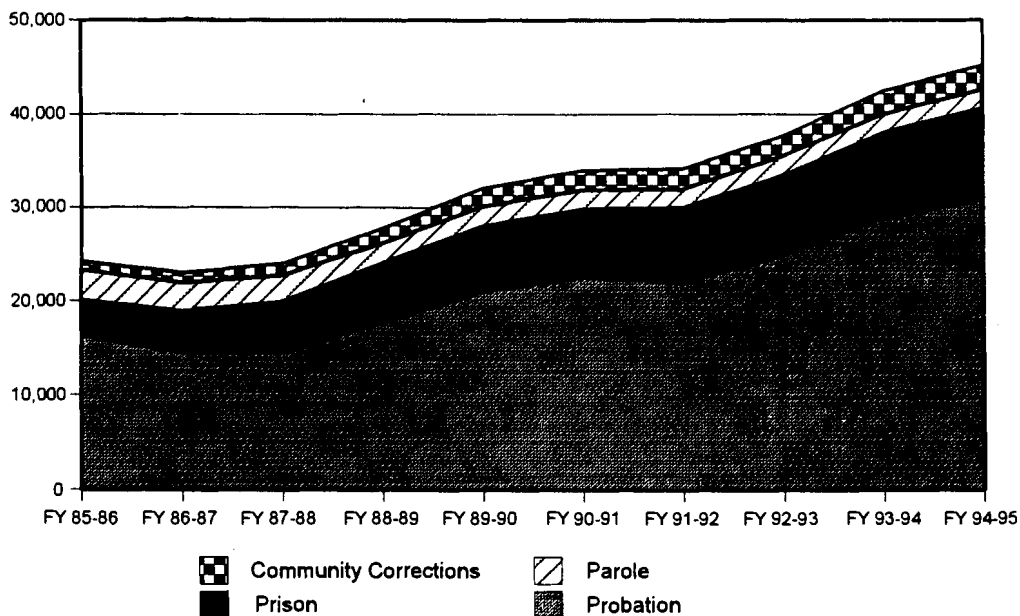
NA: Not Applicable

Graphs 1.1 and 1.2 that follow provide a visual perspective of the growth in the offender population in Colorado. The first graph provides a comparison of the *cumulative percentage* increase for each offender group. The second graph reflects the actual growth in the population based on actual offender counts/population.

**Graph 1.1: Adult Offender Population — FY 85-86 to FY 94-95  
Cumulative Percentage Increase**



**Graph 1.2: Adult Offender Population — FY 85-86 to FY 94-95  
Total Year-End Population**



It is interesting to analyze the total adult offender population per 100,000 Colorado residents. In FY 1985-86, adult offenders under the state's supervision per 100,000 residents was 752.5. Since that time, the number of offenders in Colorado incarcerated, or placed in/or on probation, community corrections, and parole increased to 1,236.2 per 100,000 residents. This is an increase of 64.3 percent. In effect, a greater proportion of the people in Colorado are adult offenders under state supervision. If the rate of the adult offender population grew at the same pace as the Colorado population, then the adult offender population would have remained relatively stable per 100,000 residents. For example, if the adult offender system had 752.5 offenders per 100,000 Colorado residents in FY 1994-95, as it did in FY 1985-86, the total offender population would be 27,508. In reality, the population is 45,191 because the offender population grew at a faster rate than the Colorado population. The biggest jump in the adult offender population was from FY 1988-89 to FY 1989-90. It is at this time that the effect of House Bill 85-1320, which doubled sentences, began to fully affect the population. Table 1.2 provides an overview of the various adult offender populations per 100,000 Colorado residents.

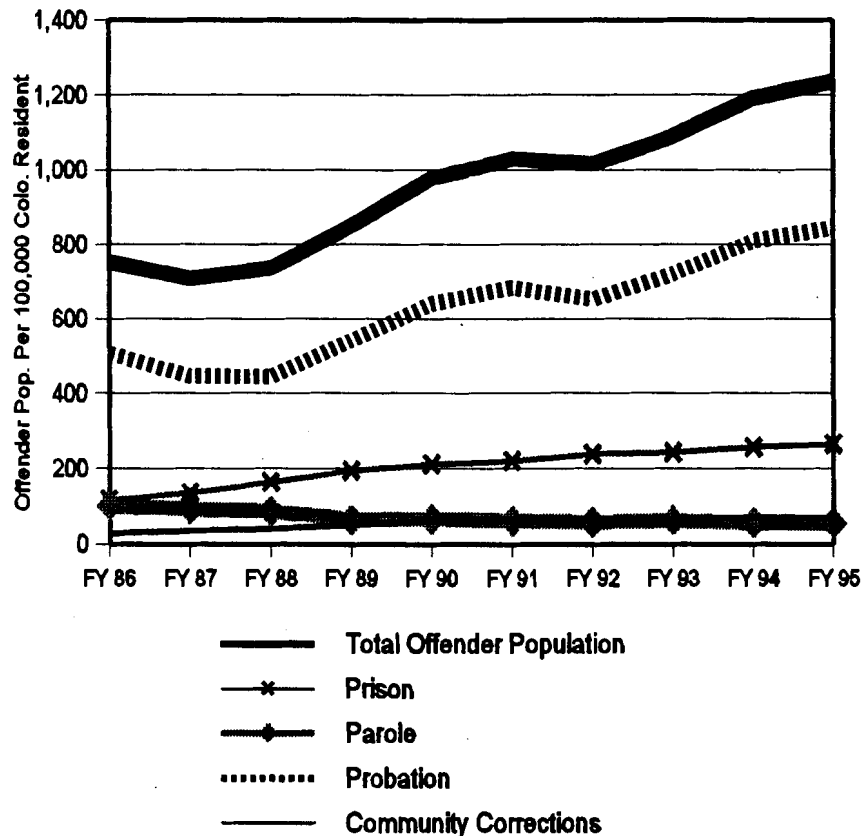
**Table 1.2: Adult Offender Population Overview**  
(offenders under state supervision per 100,000 Colorado residents)

	Prison	Parole	Probation	Community Corrections	Total
<b>FY 85-86</b>	116.1	99.9	508.7	28.3	752.5
Cum. % Inc.	NA	NA	NA	NA	NA
<b>FY 86-87</b>	136.0	92.1	445.7	34.3	708.1
Cum. % Inc.	17.1%	(7.8)%	(12.4)%	21.2%	(5.9)%
<b>FY 87-88</b>	164.6	85.7	445.3	39.7	735.3
Cum. % Inc.	41.7%	(14.2)%	(12.4)%	40.4%	(2.3)%
<b>FY 88-89</b>	194.4	63.4	541.9	50.5	850.2
Cum. % Inc.	67.4%	(36.6)%	6.6%	78.7%	13.0%
<b>FY 89-90</b>	211.7	65.1	640.1	59.7	976.6
Cum. % Inc.	82.3%	(34.9)%	26.0%	111.2%	29.8%
<b>FY 90-91</b>	221.0	60.2	665.2	64.0	1,028.4
Cum. % Inc.	90.3%	(39.7)%	34.4%	126.4%	36.7%
<b>FY 91-92</b>	238.5	57.7	651.9	67.2	1,015.3
Cum. % Inc.	105.4%	(42.3)%	28.2%	137.6%	34.9%
<b>FY 92-93</b>	243.9	61.1	726.6	64.1	1,089.7
Cum. % Inc.	110.0%	(38.9)%	41.8%	126.7%	44.8%
<b>FY 93-94</b>	257.0	54.9	808.6	71.0	1,191.5
Cum. % Inc.	121.3%	(45.0)%	59.1%	151.2%	58.3%
<b>FY 94-95</b>	266.1	55.4	845.0	69.7	1,236.2
Cum. % Inc.	129.1%	(44.5)%	66.3%	146.4%	64.3%

NA: Not Applicable

Graph 1.3 provides a visual overview on each component of the adult offender population, per 100,000 residents. It illustrates how a greater proportion of Colorado residents are under the umbrella of the adult offender system in FY 1994-95 than were in FY 1985-86. Since FY 1985-86, the Colorado population grew by 13.7 percent, whereas the adult offender population increased 86.8 percent.

**Graph 1.3: Adult Offender Population  
(population per 100,000 Colorado Residents)**



The section that follows provides a comparison of rates of correctional supervision across the United States. It should be noted, however, that the data used for this section and the following section differ in the following ways:

- the state-by-state comparison includes the jail population, whereas the Colorado-only overview does not include the jail population;
- the following comparison does not break out the community corrections population. Depending on the state, this population would be grouped under the prison, parole, or probation populations. Meanwhile, the Colorado-only section (this section) did break out the community corrections population;
- the Colorado-only section population figures were obtained from the Colorado Division of Local Government; whereas the state-by-state population figures were based on data from the U.S. Census Bureau.



## **COMPARISON OF RATES OF CORRECTIONAL SUPERVISION ACROSS THE UNITED STATES**

---

This section presents rates per 100,000 residents, as of December 31, 1993, across the United States for state and federal correction systems for four major types of correctional supervision sentences: prison, jail, parole, and probation. The total rate of correctional supervision per 100,000 people is also displayed toward the right side of Table 1.3. The table also ranks each state relative to other states in its supervision rate per 100,000 residents for each correctional alternative.

Colorado's overall rate of correctional supervision was 1,497 people per 100,000 state residents on December 31, 1993; this was 16.2 percent below the national average of 1,787 people per 100,000 Americans. Colorado's prison incarceration rate was 18.6 percent below the national average; its probation supervision rate was 6.6 percent below the national average; its parole supervision rate was 67.8 percent below the national average; and its local jail incarceration rate was 0.5 percent below the national average. Rates of correctional supervision are influenced by the way states choose to handle their offender populations as well as by the amount of crime taking place.

Table 1.3 illustrates that Colorado's rates of correctional supervision were generally below national averages. For example, the rate of prison incarceration in Colorado was 262 inmates per 100,000 Colorado residents, significantly below the national average of 322 state system inmates per 100,000 people. Colorado's parole population of 76 parolees per 100,000 residents was less than one-third of the national rate of 236 state parolees per 100,000 citizens. Colorado ranked 18th among the 50 states and the District of Columbia in its relative probation population, with 982 probationers per 100,000 residents. However, this was still below the national average of 1,051 state probationers per 100,000 Americans. Similarly, despite its 16th highest ranking in terms of per capita jail incarceration, Colorado's jail incarceration rate was roughly equal to the national average.

Colorado's above median rankings in the jail and probation categories, despite below average supervision rates per 100,000 residents, result from high rates of correctional supervision in large states such as California, Texas, New York, and Florida, and low rates of supervision in some of the smaller states. Colorado's 36th place in the relative parole population results from the fact that, since 1985, Colorado did not require a mandatory period of parole for prison inmates while many other states had such a mandatory period. Because mandatory parole was enacted in Colorado in 1993, Colorado's rate of parole supervision and its rank relative to other states is expected to rise rapidly over the next several years.

Several states (Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont) run unified prison/local jail systems. Their prison/jail populations are reported in the prison column, keeping their reported prison populations and rankings upward, while skewing their rate of jail incarcerations down. Thus, prison and jail incarceration rates for those six states are not directly comparable to rates in other states.

Correctional supervision rates are influenced by a number of factors, such as crime rates, laws governing sentence length, and decisions made about the appropriate correctional placement for an offender. For example, several states (Florida, Texas, and the District of Columbia) with high crime rates have some of the highest proportions of their populations under correctional supervision, while some with very low crime rates (North Dakota, New Hampshire, Iowa, West Virginia, and Utah) have low overall rates of correctional supervision. The relative use of correctional placement varies by state as well. For example, Washington and Minnesota rank second and seventh highest in their rates of population under probation supervision, but 40th and 50th, respectively, among the states in their rates of prison incarceration. At the other extreme, Louisiana and Nevada rank third and ninth highest in terms of prison incarceration rates but have probation supervision rates substantially below the national average. Thus, prison, parole, jail, and probation populations are affected not only by the amount of crime taking place in a state, but also by the way in which states choose to handle their offender populations.

Table 1.3: Adults Under Correctional Supervision Across the United States\*; December 31, 1993

State	Number Per 100,000 Residents									
	Prison	Rank	Incar.	Parole	Parole	Rank	Probation	Rank	TOTAL	RANK
Alabama	442	8	169	17	173	18	801	2	1,586	22
Alaska	446	6	6	46	113	27	531	3	1,096	38
Arizona	446	7	184	14	101	29	923	2	1,654	21
Arkansas	354	19	117	31	162	19	700	3	1,353	30
California	442	10	444	5	411	11	893	22	1,774	18
Colorado	262	29	177	16	76	36	982	18	1,497	27
Connecticut	418 **	10	0 **	47	19	49	1,551	9	1,988	13
Delaware	597 **	2	0 **	47	130	24	2,209	1	2,936	4
District of Columbia	1,886	1	292	4	1,146	1	1,814	5	5,139	1
Florida	385	15	250	6	126	25	1,445	11	2,206	8
Georgia	398	13	328	2	298	7	2,078	3	3,102	3
Hawaii	265 **	28	0 **	47	136	22	854	26	1,255	33
Idaho	234	33	135	24	75	38	427	44	872	43
Illinois	294	25	124	30	206	16	627	36	1,251	34
Indiana	252	30	145	22	50	17	1,445	12	1,892	15
Iowa	174	43	57	45	67	11	513	41	811	46
Kansas	226	34	111	32	282	9	950	19	1,568	23
Kentucky	274	27	180	15	109	28	301	50	864	44
Louisiana	522	3	377	1	336	6	754	31	1,989	12
Maine	118	48	57	44	3	51	634	34	811	47
Maryland	406	12	188	12	278	0	1,608	8	2,479	6
Massachusetts	166	44	131	26	72	19	777	30	1,146	36
Michigan	414	11	132	25	148	11	1,474	10	2,168	9
Minnesota	92	50	81	42	46	18	1,617	7	1,836	17
Mississippi	372	17	184	13	75	17	303	49	934	41
Missouri	308	23	96	39	260	2	627	35	1,291	32
Montana	182	41	81	41	84	12	484	42	830	45
Nebraska	156	46	105	33	50	16	901	21	1,212	35
Nevada	434	9	215	9	240	4	623	38	1,513	25
New Hampshire	157	45	100	37	55	14	365	46	678	49
New Jersey	301	24	192	10	452	4	1,384	13	2,328	7
New Mexico	214	37	189	11	78	14	469	43	950	40
New York	354	20	164	18	286	8	859	24	1,663	20
North Carolina	312	22	129	27	246	3	1,228	15	1,915	14
North Dakota	78	51	57	43	14	0	301	51	450	51

**Table 1.3: Adults Under Correctional Supervision Across the United States\*; December 31, 1993**

State	Number Per 100,000 Residents								TOTAL	RANK
	Prison	Rank	Jail	Rank	Parole	Rank	Probation	Rank		
Ohio	365	18	105	34	63	42	882	23	1,416	28
Oklahoma	506	5	127	28	77	35	792	28	1,602	26
Oregon	214	38	125	29	447	5	1,238	14	2,024	10
Pennsylvania	216	35	160	19	598	3	731	32	1,706	19
Rhode Island	278 **	26	0 **	47	54	45	1,666	6	1,998	11
South Carolina	510	4	157	20	155	20	1,058	16	1,880	16
South Dakota	216	36	87	40	94	31	527	40	924	42
Tennessee	250	31	282	5	230	15	787	29	1,550	24
Texas	385	14	307	3	637	2	2,078	4	3,407	2
Utah	153	47	102	36	117	26	388	45	761	48
Vermont	212 **	39	0 **	47	96	30	1,054	17	1,362	29
Virginia	349	21	225	7	176	17	360	47	1,110	37
Washington	196	40	141	23	70	40	2,152	2	2,559	6
West Virginia	98	49	97	38	58	43	328	48	581	50
Wisconsin	174	42	156	21	131	23	855	25	1,316	31
Wyoming	238	32	105	35	80	33	624	37	1,047	39
<b>Total State</b>	<b>322</b>		<b>178</b>		<b>236</b>		<b>1,051</b>		<b>1,787</b>	
Federal Correctional Populations	28		0		14		14		56	
<b>United States Total</b>	<b>350</b>		<b>178</b>		<b>248</b>		<b>1,051</b>		<b>1,828</b>	

\* Comprehensive data on adults in community corrections facilities were not available. For some states these may be included in other correctional populations.

\*\* Connecticut, Delaware, Hawaii, Rhode Island, and Vermont have integrated jail-prison systems. Jail inmates are included in the prison column in these states.

Source: Sourcebook of Criminal Justice Statistics, 1994.

## **Chapter 2 — Department of Corrections**

The Department of Corrections (DOC) operates 18 separate facility complexes with the following security levels: minimum, minimum-restricted, medium, close, and administrative segregation. The DOC also manages the Colorado Correctional Alternatives Program (boot camp) and the Youthful Offender System (YOS). As of September 30, 1995, the DOC housed 7,851 inmates in state facilities; 1,333 state inmates in private prisons in Bent County, Colorado, Appleton, Minnesota, and Bowie City, Texas; 243 inmates in county jails; and 911 inmates in community corrections transitional placements and intensive supervision programs. This totals to a population of 10,338, up 2.7 percent from the previous year when the DOC population was 10,068. (This does not include an off-grounds and escapee population of 331 inmates. Off-grounds population includes inmates temporarily housed in hospitals or county jails for court appearances.)

## DEPARTMENT OF CORRECTIONS — INCARCERATED OFFENDERS

### Eligible Population — DOC

The courts may only sentence those offenders to the DOC that have been convicted of a felony offense. Individuals convicted of misdemeanors may not be sentenced to the DOC. Additionally, the courts may not sentence an offender directly to parole. Offenders are placed on parole by the Parole Board after serving all or a portion of their prison sentence.

**Commitments.** New commitments to the DOC have grown by 65.2 percent from FY 1985-86 to FY 1994-95, from 2,285 commitments in FY 1985-86 to 3,774 commitments in FY 1994-95. For each fiscal year, class 4 felons constituted the largest group of commitments — 1,143 in FY 1985-86 — which was 50 percent of commitments for the year. In FY 1994-95, class 4 felons still comprised the largest felony class grouping of commitments — 1,355 commitments. However, the class 4 felons only accounted for 35.9 percent of total commitments for FY 1994-95. The number of class 5 felony commitments has grown substantially over the ten-year period. In FY 1985-86 there were a total of 550 offenders committed as class 5 felons, which equated to 24.1 percent of the commitments for the year. By 1994-95, class 5 felony commitments totaled 1,185 and accounted for 31.4 percent of the commitments. Table 2.1 provides an overview of new commitments to DOC for FY 1985-86 through FY 1994-95. The information is provided by felony class.

**Table 2.1: Total New Commitments to the DOC by Felony Class  
FY 1985-86 through FY 1994-95**

	Class 1 Felony	Class 2 Felony	Class 3 Felony	Class 4 Felony	Class 5 Felony	Class 6 Felony	Total	Percent Increase Over FY 1985-86
<b>FY 85-86</b>	36	118	438	1,143	550	0	2,285	NA
% of Tot.	1.6%	5.2%	19.2%	50.0%	24.1%	0.0%		
<b>FY 86-87</b>	38	105	481	1,107	685	0	2,416	5.7%
% of Tot.	1.6%	4.3%	19.9%	45.8%	28.4%	0.0%		
<b>FY 87-88</b>	52	100	492	1,041	908	0	2,593	13.5%
% of Tot.	2.0%	3.9%	19.0%	40.1%	35.0%	0.0%		
<b>FY 88-89</b>	38	88	578	1,096	1,036	0	2,836	24.1%
% of Tot.	1.3%	3.1%	20.4%	38.6%	36.5%	0.0%		
<b>FY 89-90</b>	40	85	620	1,115	1,122	41	3,023	32.3%
% of Tot.	1.3%	2.8%	20.5%	36.9%	37.1%	1.4%		

**Table 2.1 (continued)**

	<b>Class 1 Felony</b>	<b>Class 2 Felony</b>	<b>Class 3 Felony</b>	<b>Class 4 Felony</b>	<b>Class 5 Felony</b>	<b>Class 6 Felony</b>	<b>Total</b>	<b>Percent Increase Over FY 1985-86</b>
<b>FY 90-91</b>	39	76	612	1,155	938	162	2,982	30.5%
% of Tot.	1.3%	2.5%	20.5%	38.7%	31.5%	5.4%		
<b>FY 91-92</b>	29	88	676	1,341	1,062	266	3,457	51.3%
% of Tot.	0.8%	2.4%	19.6%	38.8%	30.7%	7.7%		
<b>FY 92-93</b>	41	76	636	1,300	999	321	3,373	47.6%
% of Tot.	1.2%	2.3%	18.9%	38.5%	29.6%	9.5%		
<b>FY 93-94</b>	44	107	662	1,294	1,121	313	3,541	55.0%
% of Tot.	1.2%	3.0%	18.7%	36.5%	31.7%	8.8%		
<b>FY 94-95</b>	35	117	730	1,355	1,185	352	3,774	65.2%
% of Tot.	0.9%	3.1%	19.3%	35.9%	31.4%	9.3%		

NA. Not Applicable.

**Average Length of Stay.** Table 2.2 provides a ten-year history of average length of stay (ALOS) for offenders sentenced to the DOC. Further information and analysis of this area is provided in Chapter 12. The information in Table 2.2 is disaggregated by felony class. The data indicate that offenders entering the system in FY 1988-89 are estimated to have the longest length of stay for all felony classes. Since that time, the ALOS declined. The table also illustrates that the ALOS for class 5 felonies decreased since the class 6 felony was established. The ALOS is based on data from the DOC.

**Table 2.2: Estimated ALOS of Incoming DOC Inmates by Felony Class  
FY 1985-86 through FY 1994-95**

<b>Fiscal Year</b>	<b>Class 1 Felony</b>	<b>Class 2 Felony</b>	<b>Class 3 Felony</b>	<b>Class 4 Felony</b>	<b>Class 5 Felony</b>	<b>Class 6 Felony**</b>
<b>FY 85-86</b>	38 years 9 months	11 years 3 months	5 years 2 months	2 years 5 months	2 years 3 months	NA
<b>FY 86-87</b>	40 years	15 years 4 months	6 years 5 months	3 years 7 months	2 years 5 months	NA
<b>FY 87-88</b>	40 years	21 years 11 months	6 years 10 months	3 years 6 months	2 years 5 months	NA
<b>FY 88-89</b>	40 years	22 years 2 months	6 years 8 months	3 years 6 months	2 years 1 month	NA

**Table 2.2 (continued)**

Fiscal Year	Class 1 Felony	Class 2 Felony	Class 3 Felony	Class 4 Felony	Class 5 Felony	Class 6 Felony**
FY 89-90	40 years	17 years 4 months	6 years 0 months	3 years 1 month	1 year 11 months	2 years 1 month
FY 90-91	Life	15 years 10 months	5 years 6 months	2 years 9 months	1 year 10 months	1 year 4 months
FY 91-92	Life	17 years 1 month	5 years 11 months	2 years 8 months	1 year 11 months	1 year 4 months
FY 92-93	Life	18 years 1 month	5 years 0 months	2 years 9 months	1 year 10 months	1 year 2 months
FY 93-94	Life	22 years 2 months	5 years 5 months	2 years 9 months	1 year 9 months	1 year 3 months
FY 94-95 *	Life	21 years 2 months	5 years 7 months	2 years 8 months	1 year 9 months	1 year 0 months

\* FY 1994-95 figures represent a nine-month period from July 1994 through March 1995.

\*\* The class 6 felony was created in FY 1989-90.

**Facilities.** Table 2.3 lists the state's adult correctional facilities, the year the facility opened, custody levels, current capacities, and planned expansions. As of November 1995, the state had a capacity of 8,545 beds, with an additional 2,319 planned by year-end 1999. As of June 30, 1995, the state facilities were operating at 93 percent of capacity. However, there were also 1,381 inmates in private facilities and a jail backlog of 658.

**Table 2.3: Department of Corrections Facilities**

Facility	Year Opened	Custody Level	Capacity/ Expansion
Territorial	1871	Medium	592
Buena Vista	1892	Medium	955
Fremont	1962	Medium	1,085
Delta	1964	Minimum	304
Skyline	1964	Minimum	200
Women's (Canon City)	1968	Mixed	267
Colorado Correctional Center	1969	Minimum	150
Rifle	1979	Minimum	150
Four Mile	1981	Minimum-Restricted	300



Table 2.3 (continued)

Facility	Year Opened	Custody Level	Capacity/ Expansion
Pre-Release	1983	Minimum-Restricted	164
Centennial	1980	Close	336
Arkansas Valley	1987	Medium	1,007
Arrowhead	1990	Minimum-Restricted	364
Limon	1991	Medium	953
Denver Reception and Diagnostic Center	1991	Mixed	400
Correctional Alternative Program (Boat Camp)	1991	Minimum	100
Colorado State Penitentiary	1993	Administrative Segregation	504
Pueblo Minimum Center	1994	Minimum	178
Youthful Offender System	1994	NA	96
San Carlos	1995	Mixed	250
Fremont Expansion (Phase I)	November 1995	Medium	96
Territorial Expansion	November 1995	Medium	94
<b>Current Total 1995</b>			<b>8,545</b>
<b>Planned Facility Expansion (Facilities Funded, But Not Yet Open)</b>			
Delta Expansion	June 1996	Minimum	180
Colorado State Penitentiary Expansion	January 1997	Close	252
Pueblo Minimum Center Expansion	March 1997	Minimum	28
Youthful Offender System	May 1997	NA	300
Arrowhead Expansion	August 1997	R-minimum	120
Four Mile	October 1997	R-minimum	288
Rifle Expansion	January 1998	Minimum	42
Denver Women's	January 1998	Mixed	248
Sterling Mixed Facility	February 1999	Mixed	894
Fremont Expansion, Phase II	May 1999	Medium	267
<b>TOTAL PLANNED EXPANSION (excludes YOS facility)</b>			<b>2,319</b>
<b>PROJECTED CAPACITY BY June 1999</b>			<b>10,864</b>

NA: Not Applicable.

NOTE: Above totals do not include community transition placements.

In addition to the above state-run facilities, the DOC has contracted with the Bent County Detention Facility for 330 minimum-restricted beds, with the Bowie County Correctional Facility in Texas for 500 medium beds, and also with the Prairie Correctional Facility in Minnesota for up to 514 medium beds.

## **Population Data**

***Inmate population.*** Table 2.4 provides a ten-year history of the DOC jurisdictional population, by facility. It also summarizes the placement of offenders by security level: administrative segregation, close, medium, restrictive-minimum, and minimum. As indicated in the table, for FY 1994-95 a majority of the offenders are housed in medium security facilities (55 percent). Restrictive-minimum and minimum, combined, house 25.7 percent of the population.



## DEPARTMENT OF CORRECTIONS — TEN-YEAR FUNDING HISTORY

### Operating Budget

The operating budget for the Department of Corrections (DOC) grew substantially during the last ten years, from \$66.2 million in FY 1985-86 (representing 3.0 percent of General Fund appropriations) to \$241.5 million in FY 1994-95 (5.7 percent of General Fund appropriations). The current budget for FY 1995-96 is \$269.0 million. The ten-year increase from FY 1985-86 to FY 1994-95 represents a growth rate of 265 percent. Accompanying the growth in the operating budget was a 6,581 inmate increase over the ten-year timeframe: from a jurisdictional population of 4,088 inmates on June 30, 1986, to 10,669 on June 30, 1995. This represents an increase of 161 percent. Most of the growth is attributable to the changes in sentencing policies outlined in Chapter 9 of this report. While doubling the presumptive sentencing ranges, as was done in 1985, will not in itself dictate that *more* individuals will be sentenced to prison, it does result in *longer lengths* of stay in prison. The longer lengths of stay were a crucial contributing factor in the growth of incarcerated inmates. Table 2.5 and Graph 2.1 compare growth in the operating budget to the increase in the jurisdictional population.

Graph 2.1 shows that the growth in the DOC operating budget far outpaced the growth in the DOC population. However, the appropriations have not been adjusted for inflation. Graph 2.2 adjusts the ten-year appropriations for inflation. The adjusted figures reflect that the operating budget still grew at a faster rate than the population, but not significantly faster. From FY 1985-86 to FY 1994-95 the prison population increased 161 percent and the inflation-adjusted operating budget grew by 170 percent.

**Table 2.5: Ten-Year DOC Operating Budget  
and Jurisdictional Population**

	Total Operating Budget	Percent Increase Over FY 1985-86	Inflation- Adjusted Operating Budget (FY 85-86 Dollars)	Percent Increase Over FY 1985-86	DOC Jurisdictional Population (Year End)	Percent Increase Over FY 1985-86
FY 1985-86	\$ 66,163,505	NA	\$66,163,505	NA	4,088	NA
FY 1986-87	71,318,900	7.8%	70,112,316	6.0%	4,746	16.1%
FY 1987-88	86,135,564	30.2%	82,453,901	24.6%	5,756	40.8%
FY 1988-89	110,922,510	67.6%	103,869,075	57.0%	6,971	70.5%
FY 1989-90	128,065,379	93.6%	116,324,700	75.8%	7,663	87.5%

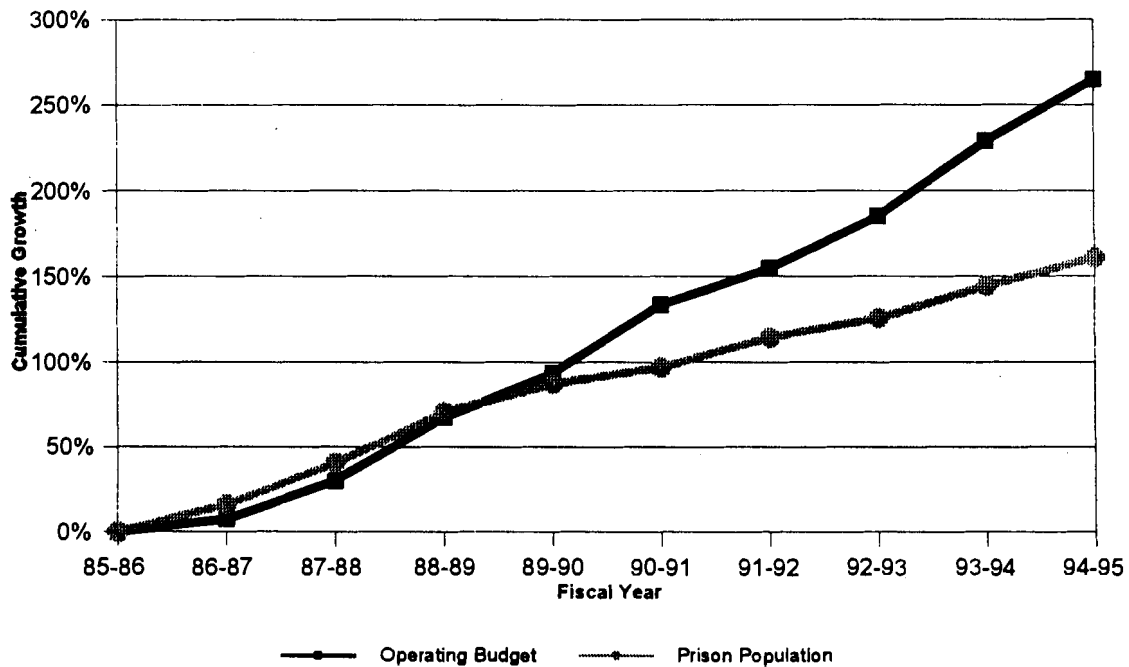
Table 2.5 (continued)

	Total Operating Budget	Percent Increase Over FY 1985-86	Inflation- Adjusted Operating Budget (FY 85-86 Dollars)	Percent Increase Over FY 1985-86	DOC Jurisdictional Population (Year End)	Percent Increase Over FY 1985-86
FY 1990-91	\$154,674,635	133.8%	134,908,911	103.9%	8,043	96.7%
FY 1991-92	168,752,763	155.1%	141,781,337	114.3%	8,774	114.6%
FY 1992-93	189,036,279	185.7%	152,735,062	130.8%	9,242	126.1%
FY 1993-94	217,691,481	229.0%	168,601,111	154.8%	10,005	144.7%
FY 1994-95	241,472,441	265.0%	167,776,084	170.2%	10,669	161.0%
<b>FY 1995-96 *</b>	<b>\$269,032,403</b>	<b>306.6%</b>	<b>190,520,312</b>	<b>188.0%</b>	<b>11,321</b>	<b>176.9%</b>

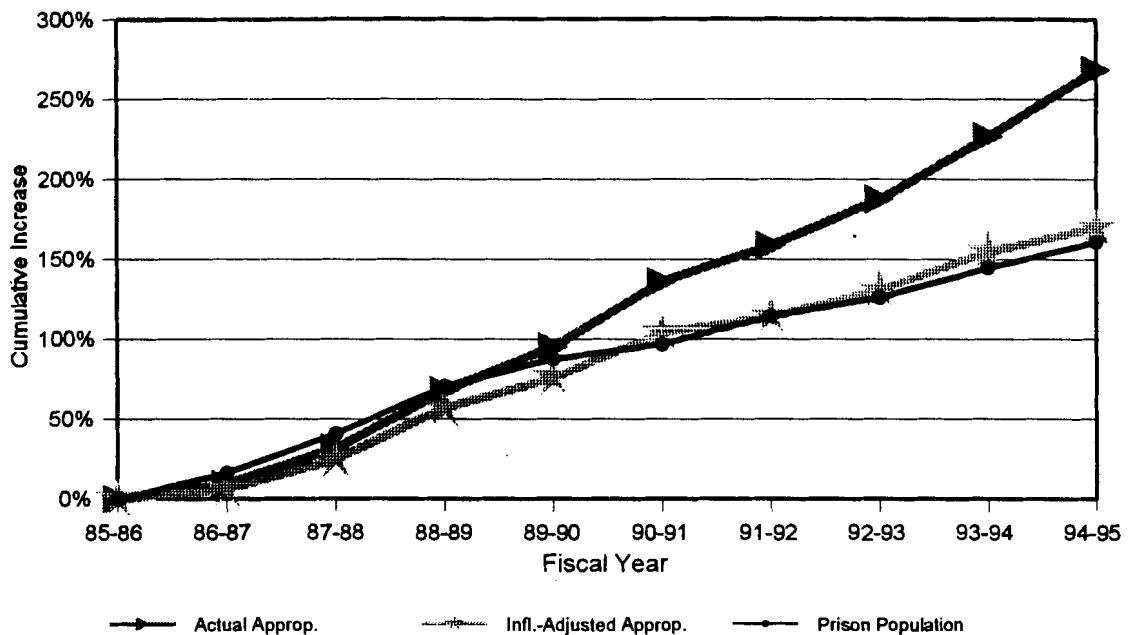
NA: Not Applicable.

\* Projected.

Graph 2.1: DOC Operating Budget vs. Population  
Cumulative Percentage Increase



**Graph 2.2: Operating Budget vs. DOC Population  
Adjusted for Inflation**



As compared with the state as a whole, the DOC budget increased at a faster rate than the overall state General Fund budget. In FY 1985-86, the DOC budget comprised 1.8 percent of the total state appropriations (includes General Fund, cash funds, and federal funds). With regard to General Fund appropriations (which provide 88 percent of the DOC budget), the DOC accounted for 3.0 percent of total General Fund appropriations. For FY 1995-96, the DOC budget constitutes 3.1 percent of the total state budget and 5.7 percent of total state General Fund appropriations. Thus, during the last ten years, an increasing proportion of the state's resources have been devoted to housing state inmates. Based on cumulative growth, the DOC budget increased at a much faster rate than the overall state budget during the past ten years. From FY 1985-86 to FY 1995-96, the total state budget increased by 133 percent and General Fund appropriations increased 120 percent, whereas the DOC budget grew by 307 percent over the same time period (Graph 2.3). The DOC General Fund appropriations increased by 322 percent over that same ten-year period. Meanwhile, FTE employment for the DOC during the decade rose 182 percent.

**Graph 2.3: Comparison of State and DOC Budget Growth  
Cumulative Percent Increase**

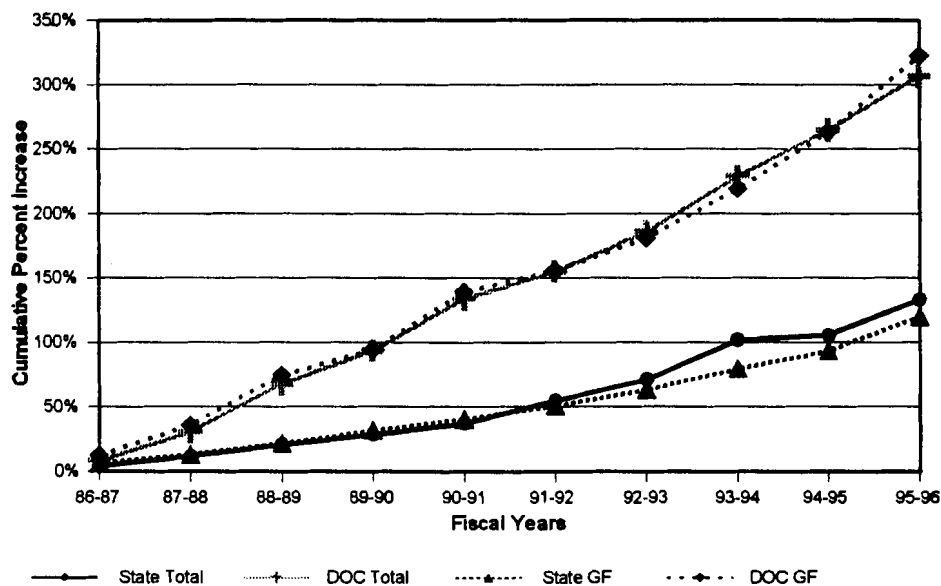


Table 2.6 provides detail of the operating budget by fund source for ten years. As previously noted, the vast majority of DOC funding comes from the General Fund. Maximum and medium care facilities consume the largest share of DOC funds, 24 percent, followed by administration, 15 percent, and correctional industries, 10 percent.

**Table 2.6: DOC Appropriations by Category  
FY 1985-86 through FY 1995-96**

		FY 1985-86	FY 1986-87	FY 1987-88	FY 1988-89	FY 1989-90	FY 1990-91	FY 1991-92	FY 1992-93	FY 1993-94	FY 1994-95	FY 1995-96 *
<b>ADMINISTRATION</b>	T	18,597,545	18,922,933	21,331,450	13,231,225	13,830,627	17,982,682	17,957,236	23,476,901	23,168,594	37,478,853	41,038,093
	GF	17,846,148	17,923,910	20,284,442	12,876,304	13,401,874	17,298,663	16,635,949	22,853,099	21,282,527	34,650,351	38,159,007
	CF	166,397	164,023	357,008	354,921	428,953	684,019	1,322,970	823,802	170,760	118,063	112,137
	CFE	0	0	0	0	0	0	0	0	1,715,307	2,709,839	2,766,949
	FF	585,000	635,000	710,000	0	0	0	(1,683)	0	0	0	0
	FTE	342.0	339.0	293.0	155.3	155.3	180.3	192.8	191.3	183.5	181.1	196.6
<b>PAYMENT TO COUNTY JAILS</b>	T	216,928	1,346,960	1,914,514	6,540,920	2,920,000	11,736,797	1,659,800	6,163,429	11,007,592	26,027,419	25,987,990
	GF	216,928	1,346,960	1,914,514	6,540,920	0	11,736,797	1,659,800	6,163,429	11,007,592	26,027,419	25,987,990
	CF	0	0	0	0	2,920,000	0	0	0	0	0	0
	CFE	0	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0	0
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>CORRECTIONAL INDUSTRIES</b>	T	9,576,845	8,097,817	9,293,351	12,227,506	14,175,916	15,914,197	19,363,919	20,923,140	26,682,280	26,412,847	27,334,146
	GF	540,381	901,044	918,339	1,374,816	2,300,000	792,000	445,000	0	0	0	6,516,308
	CF	9,036,464	7,196,773	8,375,012	10,852,690	11,875,916	15,122,197	18,918,919	20,923,140	6,403,747	0	0
	CFE	0	0	0	0	0	0	0	0	20,278,533	26,412,847	20,817,838
	FF	0	0	0	0	0	0	0	0	0	0	0
	FTE	69.0	65.0	72.2	91.0	96.0	99.0	113.0	121.0	147.0	147.0	147.0
<b>SURPLUS PROPERTY PROGRAM</b>	T	0	0	452,500	578,252	569,176	1,226,706	1,230,454	916,551	0	0	0
	GF	0	0	239,334	173,309	150,000	99,000	49,000	0	0	0	0
	CF	0	0	213,166	404,943.0	419,176	1,127,706	1,181,454	916,551	0	0	0
	CFE	0	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0	0
	FTE	0.0	0.0	7.0	7.0	7.0	7.0	7.0	7.0	0.0	0.0	0.0



**Table 2.6: DOC Appropriations by Category  
FY 1985-86 through FY 1995-96**

		FY 1985-86	FY 1986-87	FY 1987-88	FY 1988-89	FY 1989-90	FY 1990-91	FY 1991-92	FY 1992-93	FY 1993-94	FY 1994-95	FY 1995-96
<b>CANTEEN OPERATION</b>	T	0	0	0	0	0	0	0	4,927,320	6,280,846	6,203,107	6,426,355
	GF	0	0	0	0	0	0	0	0	0	0	0
	CF	0	0	0	0	0	0	0	4,927,320	6,280,846	6,203,107	6,426,355
	CFE	0	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0	0
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	15.5	17.5	15.5	18.0
<b>PAROLE BOARD</b>	T	350,025	337,640	376,621	578,953	580,834	824,148	851,403	886,702	868,234	859,492	905,042
	GF	350,025	337,640	376,621	578,953	580,834	824,148	851,403	872,274	868,234	859,492	905,042
	CF	0	0	0	0	0	0	0	14,428	0	0	0
	CFE	0	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0	0
	FTE	9.0	9.0	9.0	10.0	10.0	14.0	14.0	15.0	15.0	15.0	15.5
<b>MEDICAL AND MENTAL HEALTH</b>	T	4,953,391	5,478,129	6,283,591	6,983,999	8,732,511	9,467,591	12,497,506	12,955,751	14,921,423	22,109,094	24,674,970
	GF	4,953,391	5,478,129	6,255,591	6,955,999	8,704,511	9,239,591	12,269,506	12,727,751	14,693,423	21,601,094	24,177,241
	CF	0	0	28,000	28,000	28,000	228,000	228,000	228,000	28,000	88,000	88,000
	CFE	0	0	0	0	0	0	0	0	200,000	240,000	409,729
	FF	0	0	0	0	0	0	0	0	0	180,000	0
	FTE	104.9	105.5	126.8	137.8	137.8	139.8	178.3	178.3	178.3	272.3	283.0
<b>MAXIMUM AND MEDIUM SECURITY FACILITIES</b>	T	0	0	0	51,085,949	51,975,752	52,859,716	62,539,162	63,482,037	62,481,093	58,184,609	63,377,292
	GF	0	0	0	50,337,897	51,166,140	52,008,479	61,687,925	61,625,978	61,769,268	57,452,784	62,878,367
	CF	0	0	0	166,362	103,237	144,862	144,862	1,205,000	120,000	120,000	120,000
	CFE	0	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	581,690	706,375	706,375	706,375	651,061	591,825	591,825	380,925
	FTE	0.0	0.0	0.0	1,221.5	1,224.5	1,239.3	1,375.0	1,388.0	1,378.0	1,370.0	1,443.5

Table 2.6: DOC Appropriations by Category  
FY 1985-86 through FY 1995-96

	FY 1985-86	FY 1986-87	FY 1987-88	FY 1988-89	FY 1989-90	FY 1990-91	FY 1991-92	FY 1992-93	FY 1993-94	FY 1994-95	FY 1995-96
MINIMUM SECURITY FACILITIES	T	0	0	17,180,418	7,123,079	8,858,571	21,234,513	21,679,091	22,611,402	20,503,551	23,437,160
	GF	0	0	17,052,108	6,894,769	8,858,571	21,106,203	21,572,754	22,523,905	20,416,054	23,389,963
	CF	0	0	0	0	0	0	0	0	0	0
	CPE	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	128,310	128,310	128,310	106,337	87,497	87,497	37,197
	FTE	0.0	0.0	0.0	155.9	157.4	175.4	462.2	457.6	477.6	481.1
DIVISION OF ADULT SERVICES	T	29,635,633	29,100,587	36,808,102	0	0	0	0	0	0	0
	GF	23,556,301	29,025,108	36,818,240	0	0	0	0	0	0	0
	CF	75,459	75,459	78,862	0	0	0	0	0	0	0
	CPE	0	0	0	0	0	0	0	0	0	0
	FF	3,873	0	0	0	0	0	0	0	0	0
	FTE	666.1	795.0	1,024.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0
PAROLE	T	5,427,393	2,571,885	2,626,755	2,515,288	2,576,758	3,847,619	4,519,841	4,327,393	5,270,549	5,403,623
	GF	5,427,393	2,571,885	2,626,755	2,515,288	2,576,758	3,847,619	4,519,841	4,327,393	5,270,549	5,403,623
	CF	0	0	0	0	0	0	0	0	0	0
	CPE	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0
	FTE	82	70	89	66	66	83	83.5	80	93.8	93.8
COMMUNITY SUPERVISION	T	0	0	0	0	0	0	0	1,211,931	1,361,442	1,958,164
	GF	0	0	0	0	0	0	0	1,211,931	1,361,442	1,958,164
	CF	0	0	0	0	0	0	0	0	0	0
	CPE	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	29.5	31.5	39.1
EMERGENCY / CAPACITY EXPANSION	T	3,405,745	5,462,969	6,958,680	0	25,580,726	22,626,968	0	0	0	0
	GF	3,405,745	5,462,969	6,958,680	0	23,625,910	21,252,152	0	0	0	0
	CF	0	0	0	0	1,854,816	1,374,816	0	0	0	0
	CPE	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0
	FTE	110.6	140.1	185.7	0.0	274.5	228.0	0.0	0.0	0.0	0.0

**Table 2.6: DOC Appropriations by Category  
FY 1985-86 through FY 1995-96**

		FY 1985-86	FY 1986-87	FY 1987-88	FY 1988-89	FY 1989-90	FY 1990-91	FY 1991-92	FY 1992-93	FY 1993-94	FY 1994-95	FY 1995-96 *
<b>DENVER RECEPTION DIAGNOSTIC CENTER</b>	T	0	0	0	0	0	4,706,174	11,148,991	11,687,900	12,063,927	9,272,528	9,626,481
	GF	0	0	0	0	0	4,681,174	11,073,991	11,619,207	12,000,642	9,209,243	9,578,898
	CF	0	0	0	0	0	0	0	0	0	0	0
	CFE	0	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	25,000	75,000	68,693	63,285	63,285	47,585
	FTE	0.0	0.0	0.0	0.0	0.0	91.0	245.2	278.8	277.0	230.5	230.5
<b>LIMON CORRECTIONAL CENTER</b>	T	0	0	0	0	0	4,623,466	15,749,938	15,847,474	17,465,457	13,132,582	12,504,087
	GF	0	0	0	0	0	4,123,779	13,709,938	14,830,524	15,533,625	13,043,250	12,466,455
	CF	0	0	0	0	0	480,937	1,931,250	917,500	442,200	0	0
	CFE	0	0	0	0	0	0	0	0	1,400,300	0	0
	FF	0	0	0	0	0	18,750	108,750	99,450	89,332	89,332	37,632
	FTE	0.0	0.0	0.0	0.0	0.0	85.4	320.9	361.2	350.2	325.6	289.6
<b>COLORADO STATE PENITENTIARY</b>	T	0	0	0	0	0	0	0	1,762,590	12,123,705	9,812,281	10,353,290
	GF	0	0	0	0	0	0	0	1,762,590	12,068,705	9,757,281	10,298,690
	CF	0	0	0	0	0	0	0	0	0	0	0
	CFE	0	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	55,000	55,000	54,600
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	56.2	325.0	300.0	300.0
<b>YOUTHFUL OFFENDER SYSTEM</b>	T	0	0	0	0	0	0	0	0	1,534,448	2,296,017	5,608,306
	GF	0	0	0	0	0	0	0	0	1,534,448	2,296,017	5,608,306
	CF	0	0	0	0	0	0	0	0	0	0	0
	CFE	0	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0	0
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	47.0	78.0	78.0

**Table 2.6: DOC Appropriations by Category  
FY 1985-86 through FY 1995-96**

		FY 1985-86	FY 1986-87	FY 1987-88	FY 1988-89	FY 1989-90	FY 1990-91	FY 1991-92	FY 1992-93	FY 1993-94	FY 1994-95	FY 1995-96 *
<b>PUEBLO MINIMUM CENTER</b>	T	0	0	0	0	0	0	0	0	0	1,633,166	1,720,943
	GF	0	0	0	0	0	0	0	0	0	1,633,166	1,720,943
	CF	0	0	0	0	0	0	0	0	0	0	0
	CFE	0	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0	0
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	46.0	46.0
<b>SAN CARLOS FACILITY</b>	T	0	0	0	0	0	0	0	0	0	947,335	8,676,461
	GF	0	0	0	0	0	0	0	0	0	947,335	8,676,461
	CF	0	0	0	0	0	0	0	0	0	0	0
	CFE	0	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0	0
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	22.1	229.4
<b>GRAND TOTAL - OPERATING</b>	T	66,163,505	71,318,900	86,135,564	110,922,510	128,065,379	154,674,635	168,752,763	189,036,279	217,691,481	241,472,441	269,032,403
	GF	56,296,312	63,047,645	76,372,516	98,405,594	109,500,596	134,633,663	144,008,556	158,154,997	179,764,849	204,513,046	237,733,458
	CF	9,278,320	7,436,255	9,053,048	11,806,918	17,730,098	19,162,537	23,727,455	29,955,741	13,445,553	6,529,770	6,746,482
	CFE	0	0	0	0	0	0	0	0	23,594,140	29,362,686	23,994,518
	FF	588,873	835,000	710,000	710,000	834,685	878,435	1,016,752	925,541	886,939	1,066,939	557,939
	FTE	1,383.6	1,523.6	1,786.9	1,844.5	2,126.5	2,352.2	2,991.9	3,148.9	3,519.4	3,576.0	3,899.1

\* Projected.  
T: Total  
GF: General Fund  
CF: Cash Funds  
CFE: Cash Funds Exempt from the Article X, Section 20 constitutional spending limit.  
FF: Federal Funds  
FTE: Full-time equivalent employees.

## DEPARTMENT OF CORRECTIONS — FACILITY OPERATING COSTS

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The purpose of this section is to provide an overview of operating costs, per facility, for the DOC for FY 1994-95. Table 2.7 lists each of the facilities operated by the DOC during FY 1994-95 and the total operating costs. The information is categorized by security level and provides the following: average facility bed capacity; operational capacity; total FY 1994-95 operating cost per facility; cost per inmate per facility; and average cost per security level. It should be noted that each of the facilities is operated at a particular security level, such as: reception/diagnostic, administrative segregation, close, medium/mixed, restrictive-minimum, and minimum. Generally, the higher the security level, the more costly it is to house the offender. The security level is designed to house varying custody levels of offenders. A brief description of the offenders that would be housed in each facility follows:

<b>Administrative Segregation</b>	Facilities are considered maximum security and are designed for inmates who have behaviorally demonstrated that they cannot function appropriately in a less secure, general population setting. Administrative segregation deals with the extremely difficult to manage population in a secure environment.
<b>Close</b>	These are offenders that are convicted of serious violent crimes that require close supervision; exhibit a high degree of institutional adjustment problems; are a high escape risk; and/or need close supervision based on their parole eligibility date.
<b>Medium</b>	These are offenders that are convicted of violent and non-violent offenses and need a moderate level of supervision; exhibit moderate institutional adjustment problems; are a low to moderate escape risk; and/or have high medical or mental health needs.
<b>Restrictive-Minimum</b>	In order to be initially assigned to this level, offenders must be non-violent; meanwhile, these offenders must exhibit very low to no institutional adjustment problems; be a low escape risk; have a parole eligibility date of less than five years; and have low to moderate medical and mental health needs.
<b>Minimum</b>	These offenders must be non-violent; exhibit no institutional adjustment problems; not be an escape risk; have a parole eligibility date of less than three years; and have minimal or no medical or mental health needs.
<b>Reception/Diagnostic</b>	Offenders are admitted to the DOC through the Denver Reception and Diagnostic Center. It is a secure setting as it handles all custody level of inmates.

**Table 2.7: Department of Corrections Average Annual Offender Operating Costs**

Facility — Males	FY 94-95 Average Bed Capacity	% of Total DOC Capacity	Operational Average /1	FY 94-95 Total Operating Cost	% of Total DOC Cost	FY 94-95 Cost Per Offender Per Facility
<b>ADMINISTRATIVE SEGREGATION</b>						
Colorado State Penitentiary	504	6.3%	498.8	\$14,513,365	8.7%	\$29,099
<b>CLOSE</b>						
Centennial Corr. Facility	336	4.2%	332.5	\$9,623,651	5.8%	\$28,946
<b>MIXED/MEDIUM</b>						
Limon Corr. Facility	947		941.9	18,096,580		19,213
Arkansas Valley Corr. Facility	1,007		993.2	19,201,163		19,333
Buena Vista Corr. Facility	725		718.0	14,995,582		20,885
Colorado Territorial Corr. Facility	592		586.9	13,410,911		22,829
Fremont Corr. Facility	1,085		1,071.8	20,771,511		19,380
<b>Subtotal</b>	4,356	54.6%	4,311.7	\$86,475,747	51.7%	\$20,056
<b>RESTRICTIVE-MINIMUM</b>						
Buena Vista Modular Unit	246		243.3	4,436,527		18,238
Arrowhead Corr. Facility	364		359.3	6,972,670		19,408
Four Mile Corr. Center	300		298.7	5,041,062		16,952
Pre-Release Corr. Center	164		161.8	2,634,915		16,281
<b>Subtotal</b>	1,074	13.5%	1,061.7	\$19,085,174	11.4%	\$17,979
<b>MINIMUM</b>						
Pueblo Minimum Center /2	115		112.1	2,515,877		22,452
Skyline Corr. Center	200		197.6	3,302,161		16,709
Colorado Corr. Center	150		147.6	2,516,226		17,047
Delta Corr. Center	304		298.7	5,689,605		19,143
Rifle Corr. Center	150		148.3	2,754,567		18,584
Colorado Corr. Alt. Program	100		99.0	2,189,059		22,112
<b>Subtotal</b>	1,019	12.8%	1,003.4	\$18,967,495	11.4%	\$18,904
<b>RECEPTION</b>						
Denver Reception Diagnostic Ctr.	400	5.0%	394.7	\$11,990,749	7.2%	\$30,380
<b>WOMEN/MIXED CUSTODY</b>						
Colo. Women's Corr. Facility	287	3.6%	281.3	\$6,503,926	3.9%	\$23,305
<b>TOTALS</b>	7,976	NA	7,884.0	\$167,160,107		\$21,202

NA: Not Applicable.

/1 The operational capacity reflects the average vacancy due to the natural movement within the system. For the purpose of determining cost per facility, it represents the base operational capacity, as well as the weighted average daily population for the medical and food facility cost components.

/2 The Pueblo Minimum Center was not operational for all of FY 1994-95. The average operating cost is based on an average daily attendance of 107.

Table 2.8 summarizes the operating cost per security level and provides the weighted average annual cost per offender for FY 1994-95. The weighted cost was determined using the current DOC classification instrument. The classification instrument applies an objective score to each inmate admitted to the DOC to determine custody level assignments. The scale adopted by the DOC is designed to, on average, proportionately classify inmates within each custody/security level. The applied percentages are noted in Table 2.8. The classification instrument represents that at any point in time, DOC inmates would be housed/distributed as follows: 5.0 percent in reception (the diagnostic facility); 4.75 percent in the administrative segregation facility; 5.83 percent in close facilities; 43.59 percent in medium facilities; 18.53 percent in restrictive-minimum facilities; 19.05 percent in minimum facilities; and 3.14 percent in women's facilities. The weighted average cost per offender was calculated taking the sum of the average cost per security level times the classification percentage. For instance, it is assumed that 43.59 percent of the offenders who enter the system will be placed in medium custody. Therefore, 43.59 percent of the average offender costs should reflect the cost of housing medium inmates. The weighted average is used for determining the cost of housing new offenders in the system as it assumes that offenders will be distributed according to the classification instrument. The weighted average differs from the total average cost per offender in Table 2.7 because Table 2.7 distributes offenders by average type of capacity, rather than where the inmate "should" be classified.

**Table 2.8: FY 1994-95 — Department of Corrections Weighted Average Annual Offender Cost**

<b>Male</b>	<b>Cost Per Security Level</b>	<b>Average Cost Per Security Level</b>	<b>DOC Current Classification Instrument</b>	<b>Average Offender Cost Based on Classification Instrument</b>
Reception	\$11,990,749	\$30,380	5.00%	\$1,519
Administrative Segregation	14,513,365	29,099	4.75%	1,382
Close	9,623,651	28,946	5.83%	1,687
Mixed/Medium	86,475,747	20,056	43.59%	8,742
Restrictive-Minimum	19,085,174	17,975	18.53%	3,331
Minimum	18,967,495	18,904	19.05%	3,602
<b>Subtotal Males</b>	<b>\$160,656,181</b>	<b>\$19,604</b>	<b>96.75%</b>	<b>\$20,263</b>
<b>Total Female Costs</b>	<b>\$6,503,926</b>	<b>\$23,132</b>	<b>3.14%</b>	<b>\$757</b>
<b>Total Weighted Operating Cost — Male and Female</b>	<b>\$167,160,107</b>		<b>NA</b>	<b>\$21,020</b>

NA: Not Applicable.

## DEPARTMENT OF CORRECTIONS — CAPITAL CONSTRUCTION

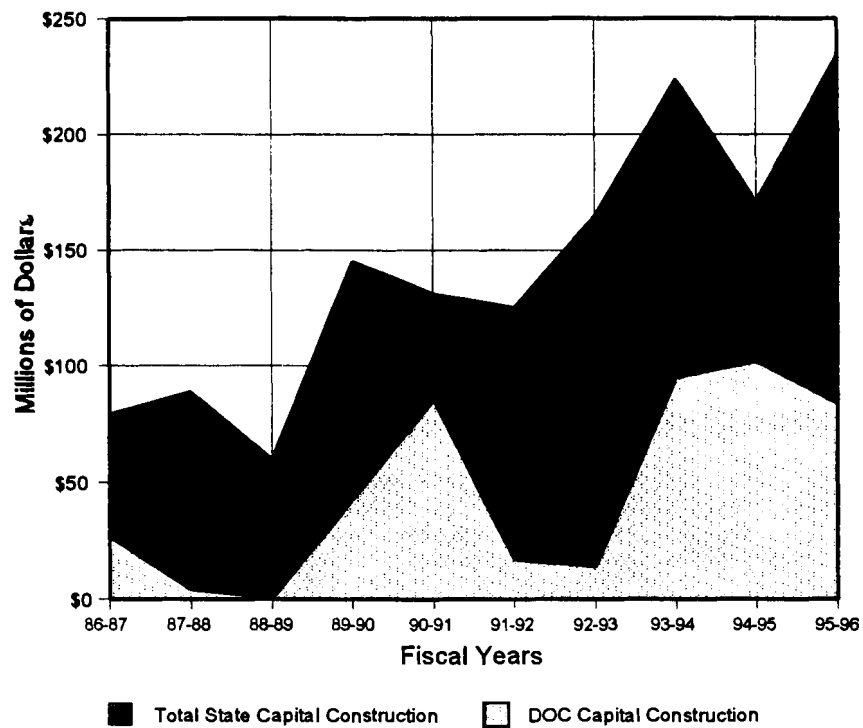
A significant proportion of the state's capital construction resources have been dedicated to the DOC over the last ten years. Capital construction appropriations to the DOC from FY 1986-87 to FY 1995-96 have accounted for 33.5 percent of total state appropriations for capital construction. (This does not include federal funds.) Table 2.9 and Graph 2.4 summarize the DOC capital construction appropriations and provide a comparison to the state appropriations totals. During the previous ten years, the state has spent \$478 million on DOC capital construction. The bulk (58 percent) of these appropriations occurred in the last three years.

**Table 2.9: Capital Construction Appropriations History**

<b>Fiscal Year</b>	<b>DOC Controlled Maintenance</b>	<b>DOC Capital Construction (Without New Bed Construction)</b>	<b>New Bed Construction</b>	<b>DOC Total</b>	<b>Total State Capital Construction Appropriations</b>	<b>DOC Percent of Total</b>
FY 86-87	\$803,000	\$0	\$26,208,550	<b>\$27,011,550</b>	\$79,254,208	34.1%
FY 87-88	1,465,000	468,500	2,111,600	<b>4,045,100</b>	89,063,258	4.5%
FY 88-89	945,325	0	0	<b>945,325</b>	60,167,909	1.6%
FY 89-90	1,150,990	5,529,847	37,186,203	<b>43,867,040</b>	145,185,292	30.2%
FY 90-91	500,000	6,201,527	79,879,691	<b>86,581,218</b>	131,048,034	66.1%
FY 91-92	33,000	2,146,467	15,398,243	<b>17,577,710</b>	125,626,259	14.0%
FY 92-93	707,500	0	14,265,323	<b>14,972,823</b>	165,728,496	9.0%
FY 93-94	1,342,340	4,144,977	90,463,619	<b>95,950,936</b>	224,340,103	42.8%
FY 94-95	803,140	1,681,008	100,330,555	<b>102,814,703</b>	171,877,518	59.8%
FY 95-96	1,437,276	11,133,000	71,736,968	<b>84,307,244</b>	234,035,751	36.0%
<b>Total</b>	<b>\$9,187,571</b>	<b>\$31,305,326</b>	<b>\$437,580,752</b>	<b>\$478,073,649</b>	<b>\$1,426,326,828</b>	<b>33.5%</b>



**Graph 2.4: Capital Construction Funding History  
DOC vs. Total State Capital Construction Appropriations**



### **Chapter 3 — Department of Corrections — Parole Population**

Parole services are administered by the Department of Corrections. The department has five operational units: Denver Parole Operations, Northeast Parole Operations in Westminster, Southeast Parole Operations in Colorado Springs, Western Parole Operations in Grand Junction, and Interstate Compact Operations in Lakewood. Satellite offices are also located in a number of the smaller towns throughout the state. Offenders are placed on parole by the State Parole Board, which is a seven-member board appointed by the Governor. The board is composed of two representatives from law enforcement, one former parole or probation officer, and four citizen representatives.

## **PAROLE GUIDELINES**

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In determining whether to grant parole, the Parole Board is required by statute (Section 17-22.5-404, C.R.S.) to first consider in every decision it makes the risk of violence to the public. The board is also required to consider the following factors:

- the testimony of the crime victim or a relative of the victim, if the victim has died;
- the offender's conduct, including the observation of rules and regulations, while confined in a correctional facility;
- the offender's demonstration of good faith efforts to:
  - (1) make restitution to the victim;
  - (2) pay reasonable costs of parole supervision;
  - (3) devote time to a specific employment or occupation;
  - (4) enroll in a school, college, university, or course of vocational or technical training designed to fit the student for gainful employment;
  - (5) remain within prescribed geographical boundaries and notify the court or the parole officer of any change in the offender's address or employment;
  - (6) report as directed to the parole officer;
  - (7) participate in some type of community service work;
  - (8) provide support, including any court-ordered child support, for any minor children;
- whether the offender has diligently attempted but has been unable to obtain employment that provides the offender sufficient income, whether the offender has an employment disability, or whether the offender's age prevents him or her from obtaining employment;
- whether the offender has harassed the victim, verbally or in writing; and
- the offender's participation in the literacy corrections programs.

The Parole Board must also consider extraordinary aggravating circumstances, listed below, when determining the conditions for and length of parole supervision. The aggravating circumstances are used to determine whether the offender has a high risk of recidivism or violence:

- the crime involved serious bodily injury, threat of serious bodily injury, or other acts disclosing a high degree of cruelty, viciousness, or callousness;
- the offender was armed with or used a deadly weapon at the time of the offense;
- the offense involved multiple victims;
- the victim was particularly vulnerable due to advanced age, disability, ill health, or extreme youth;
- the offender's conduct was directed at an active officer of the court or at an active or former judicial officer, prosecuting attorney, defense attorney, peace officer, correctional employee, or firefighter;
- the offender induced others to participate in the commission of the offense or occupied a position of leadership or dominance over other participants;
- the offender took advantage of a position of trust or confidence to commit the offense;
- the offender committed the offense pursuant to an agreement that he or she either pay or be paid;
- circumstances surrounding the offense indicate that substantial planning and deliberation took place;
- the object of the crime was to acquire or to obtain control of a controlled substance or other illegal item or material;
- the offender has engaged in a pattern of violent conduct;
- the offender was on parole or on probation for another felony when the offense was committed;
- the offender was charged with or was on bond for a previous felony when he or she committed the offense, and for which the offender was subsequently convicted;

- the offender was confined in a prison or any correctional state as a convicted felon, or was an escapee from any correctional institution when the offense was committed; and
- the offender has numerous or increasingly serious convictions as an adult or adjudications of delinquency as a juvenile.

## **PAROLE SERVICES**

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Once paroled, the DOC has several programs to provide varying levels of services to parolees. The special treatment programs are known as RAM (Risk Assessment Management), ATP (Approved Treatment Provider program), TASC (Treatment Alternatives to Street Crime), and indigent parolee financial assistance. The programs serve the following populations:

- the RAM program identifies and provides specialized supervision and treatment for sex offenders, chronically mentally ill, child abusers, and arsonists;
- the ATP program provides specialized mental health resources to parolees. Program monies are allocated annually to each parole region to assist the offender during the first weeks of placement in the community. Parolees gain access to the program by a written referral from their supervising officer. Specialized treatment programs include anger management, domestic violence, sex offender, polygraphs, psychological evaluations, offender groups, parenting classes, special assessments, and chronically mentally ill services;
- the DOC has created a Parole Indigency Fund which is basically a revolving checking account that provides immediate assistance to the parolee and timely payment to a vendor. When a parolee requests assistance, the need is evaluated by the parole officer. The funds are used to assist the offender in securing employment, housing, and other services. Fund are for such items as food certificates, bus tokens, and tools; and
- the TASC program is provided in each parole region for offenders with chemical addictions. TASC program activities include: assessment, referral, treatment monitoring, drug testing, antabuse services, and community resource coordination. The program consists of alcohol and drug abuse specialists functioning as case managers under contracts for services. The contractors are located in close proximity to the parole regional office.

## PAROLE ELIGIBILITY

Under current law, all felony offenders admitted to the DOC for offenses committed after July 1, 1993, are subject to a period of mandatory parole. Offenders are eligible for parole after serving 50 percent of their sentence, less earned time. Consequently, the earliest possible date that offenders may be paroled is after serving 38 percent of their sentence. (Class 1 felony offenders are not eligible for parole under current law.) Offenders convicted of second degree murder, assault, kidnapping, sexual assault, arson, burglary, or aggravated robbery are eligible for parole after serving 75 percent of their sentence, less earned time. Table 3.1 illustrates the earliest possible parole date, based on the sentence imposed versus the time served when parole is denied. Both the 50 percent and 75 percent thresholds are illustrated. The table assumes that offenders earn 100 percent of their earned time, which is ten days per month. Offenders, however, may not reduce their sentence through earned time by more than 25 percent.

**Table 3.1: Overview of Earliest Possible Parole Eligibility Date (PED)**

Sentence / Years	Assumes Offender Eligible After Serving 50% of Sentence, Less Earned Time		Assumes Offender Eligible After Serving 75% of Sentence, Less Earned Time		Maximum Time Served — Assumes Parole Denied and 100% Earned Time	
	Total Earned Time, Years	Earliest Possible PED, Years	Total Earned Time, Years	Earliest Possible PED, Years	Total Earned Time, Years	Discharge Date, Years
1	0.12	0.38	0.19	0.56	0.25	0.75
5	0.62	1.88	0.93	2.82	1.25	3.75
10	1.24	3.76	1.86	5.64	2.50	7.50
15	1.86	5.64	2.78	8.47	3.75	11.25
20	2.47	7.53	3.71	11.29	5.00	15.00
25	3.09	9.41	4.64	14.11	6.25	18.75
30	3.71	11.29	5.57	16.93	7.50	22.50
35	4.33	13.17	6.49	19.76	8.75	26.25

## PAROLE POPULATION

Over the past ten years, the parole population decreased by 35.2 percent. On June 30, 1985, the parole population stood at 3,126 offenders. As of June 30, 1995, the population was 2,026 offenders. One reason for the recent decline in the parole population is that legislation passed in 1990 allowed offenders to be awarded earned time while on parole. Prior to that time, earned time was not granted. House Bill 93-1302, again stipulated that offenders may not receive earned time while on parole with the exception of non-violent offenders. House Bill 95-1087 again stipulated that non-violent offenders may receive earned time while on parole. Table 3.2 summarizes the parole population from June 30, 1985, through June 30, 1995. It also provides the projected population through June 30, 2000. It should be noted that House Bill 93-1302 created a mandatory parole period. Not only is the parole mandatory, but a longer parole sentence is also prescribed. Prior to House Bill 93-1302, the length of parole was at the discretion of the Parole Board. Table 3.3 reflects the new mandatory periods of parole, by felony class, for offenders committed after July 1, 1993. In 1994, the average length of stay for parole was 12.7 months. Legislative Council Staff's prison population projections (December 1995) indicate that, under House Bill 93-1302 the average length of stay will increase to 34.8 months. The increase in parole is primarily the result of the mandatory parole requirement.

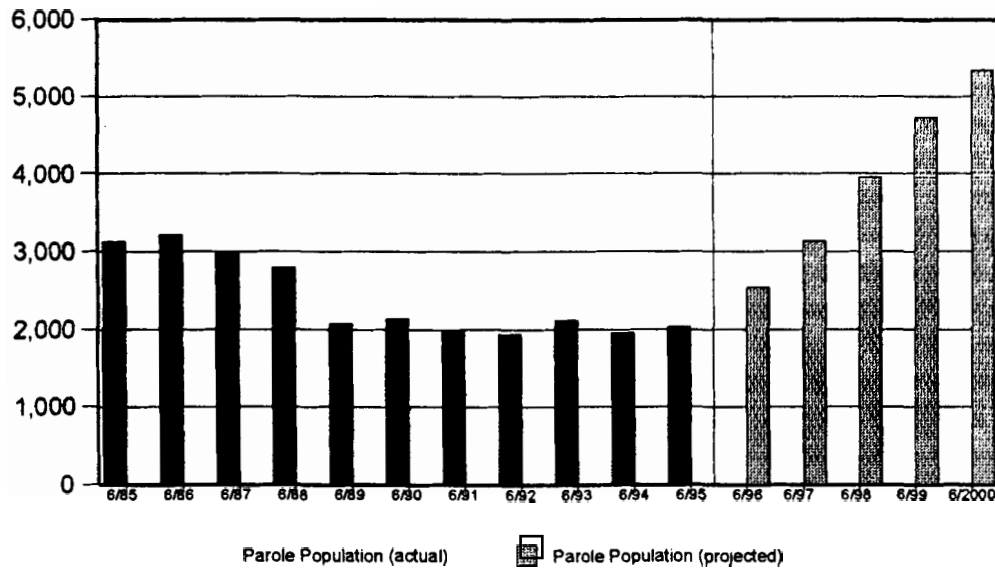
**Table 3.2: History of Adult Parole Population  
and Five-Year Projections**

Date	Population	Cumulative Percent Increase Over June 1985
June 30, 1985 (actual)	3,126	NA
June 30, 1986 (actual)	3,211	2.7%
June 30, 1987 (actual)	2,989	(4.4)%
June 30, 1988 (actual)	2,796	(10.6)%
June 30, 1989 (actual)	2,073	(33.7)%
June 30, 1990 (actual)	2,137	(31.6)%
June 30, 1991 (actual)	1,990	(36.3)%
June 30, 1992 (actual)	1,943	(37.8)%
June 30, 1993 (actual)	2,116	(32.3)%
June 30, 1994 (actual)	1,958	(37.4)%
June 30, 1995 (actual)	2,026	(35.2)%
June 30, 1996 (projected)	2,537	(18.8)%
June 30, 1997 (projected)	3,136	0.3%
June 30, 1998 (projected)	3,953	26.5%
June 30, 1999 (projected)	4,727	51.2%
June 30, 2000 (projected)	5,341	70.9%

NA: Not Applicable.

Table 3.2 is illustrated further in Graph 3.1 which highlights the rapid growth in the parole caseload that is projected for the next five years.

**Graph 3.1: Adult Parole Population  
Actual and Projected**



**Table 3.3: Adult Felony Class and  
Mandatory Parole**

Felony Class	Mandatory Parole
Class 1	Parole Not Possible
Class 2	5 Years
Class 3	5 Years
Class 4	3 Years
Class 5	3 Years
Class 6	1 Year



Table 3.4 provides a profile of the parole population by region. The data are as of June 30, 1994. The data reveal the following with regard to the parole population:

- the Denver region accounts for the greatest number of parolees, with 946 offenders. This represents 43.3 percent of the population;
- males comprise 89.7 percent of the parole population and females account for 10.3 percent. In contrast, males comprise 94.2 percent of the prison population.
- a majority of the parolee population is Anglo (51.6 percent), followed by Hispanic at 24.0 percent. Blacks comprise 21.9 percent of the population. This is somewhat similar to the prison population which is 45.8 percent Anglo, 25.9 percent Hispanic, 24.9 percent Black, and 3.4 percent other.
- class 4 felony offenders constitute the largest percent of the parole population, at 39.4 percent. They are followed by class 5 felony offenders, 20.3 percent, and class 3 felony offenders, at 19.3 percent;
- parolees aged 30 to 39 years make up the largest share of the population, at 41.6 percent. Parolees aged 20 to 29 are next, at 36.2 percent; and
- drug abuse, burglary, and theft are the most common felony offenses committed by parolees.

**Table 3.4: Parole Population Profile by Region  
As of June 30, 1994**

CATEGORY	DENVER		NORTHEAST		SOUTHEAST		WESTERN		TOTAL	
	No.	% of Reg.	No.	% of Reg.	No.	% of Reg.	No.	% of Reg.	No.	% of State
<b>TOTAL OFFENDERS *</b>	946		631		445		162		2,184	
% of Total		43.3%		28.9%		20.4%		7.4%		100.0%
Average Age	34 years		33 years		33 years		32 years		33 years	
<b>GENDER</b>										
Male	831	87.8%	577	91.4%	398	89.4%	152	93.8%	1,958	89.7%
Female	115	12.2%	54	8.6%	47	10.6%	10	6.2%	226	10.3%
<b>ETHNIC CATEGORY</b>										
Anglo	345	36.5%	410	65.0%	241	54.2%	131	80.9%	1,127	51.6%
Hispanic	233	24.6%	157	24.9%	107	24.0%	27	16.7%	524	24.0%
Black	347	36.7%	46	7.3%	84	18.9%	2	1.2%	479	21.9%
Native Am. Indian	11	1.2%	11	1.7%	8	1.8%	1	0.6%	31	1.4%
Asian	5	0.5%	3	0.5%	1	0.2%	0	0.0%	9	0.4%
Unknown	5	0.5%	4	0.6%	4	0.9%	1	0.6%	14	0.6%

**Table 3.4 (continued)**

CATEGORY	DENVER		NORTHEAST		SOUTHEAST		WESTERN		TOTAL	
	No.	% of Reg.	No.	% of Reg.	No.	% of Reg.	No.	% of Reg.	No.	% of State
<b>FELONY CLASS</b>										
Class 1	0	0.0%	0	0.0%	1	0.2%	0	0.0%	1	0.0%
Class 2	11	1.2%	12	1.9%	9	2.0%	2	1.2%	34	1.6%
Class 3	182	19.2%	105	16.6%	104	23.4%	31	19.1%	422	19.3%
Class 4	377	39.9%	261	41.4%	174	39.1%	49	30.2%	861	39.4%
Class 5	242	25.6%	125	19.8%	57	12.8%	20	12.3%	444	20.3%
Class 6	22	2.3%	30	4.8%	8	1.8%	6	3.7%	66	3.0%
Other/Interstate	112	11.8%	98	15.5%	92	20.7%	54	33.3%	356	16.3%
<b>AGE GROUP</b>										
18 - 19	1	0.1%	2	0.3%	0	0.0%	0	0.0%	3	0.1%
20 - 29	308	32.6%	252	39.9%	170	38.2%	60	37.0%	790	36.2%
30 - 39	410	43.3%	241	38.2%	184	41.3%	74	45.7%	909	41.6%
40 - 49	169	17.9%	105	16.6%	64	14.4%	22	13.6%	360	16.5%
50 +	58	6.1%	31	4.9%	27	6.1%	6	3.7%	122	5.6%
<b>OFFENSE TYPE</b>										
Homicide	11	1.2%	20	3.2%	8	1.8%	2	1.2%	41	1.9%
Robbery	51	5.4%	20	3.2%	25	5.6%	3	1.9%	99	4.5%
Kidnapping	2	0.2%	2	0.3%	4	0.9%	0	0.0%	8	0.4%
Assault	34	3.6%	24	3.8%	22	4.9%	7	4.3%	87	4.0%
Sex Assault	7	0.7%	8	1.3%	4	0.9%	1	0.6%	20	0.9%
Sex Assault/Child	3	0.3%	2	0.3%	0	0.0%	0	0.0%	5	0.2%
Drug Abuse	184	19.5%	96	15.2%	69	15.5%	20	12.3%	369	16.9%
Burglary	127	13.4%	93	14.7%	54	12.1%	17	10.5%	291	13.3%
Theft	144	15.2%	89	14.1%	45	10.1%	17	10.5%	295	13.5%
Forgery	37	3.9%	24	3.8%	20	4.5%	6	3.7%	87	4.0%
Fraud	14	1.5%	10	1.6%	8	1.8%	3	1.9%	35	1.6%
Traffic	7	0.7%	20	3.2%	5	1.1%	4	2.5%	36	1.6%
Escape	40	4.2%	18	2.9%	17	3.8%	3	1.9%	78	3.6%
Att/Cons/ Sol-Violent	21	2.2%	6	1.0%	11	2.5%	1	0.6%	39	1.8%
Att/Cons/Sol- Non-Violent	76	8.0%	55	8.7%	36	8.1%	12	7.4%	179	8.2%
Habitual - Small	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Habitual - Big	2	0.2%	1	0.2%	1	0.2%	0	0.0%	4	0.2%
Other/Interstate	186	19.7%	143	22.7%	116	26.1%	66	40.7%	511	23.4%

\* Profile number includes absconders not normally reported in parole caseload. This accounts for the difference between figures in this table and in Table 3.2.

Source: Department of Corrections, *Statistical Report*, Fiscal Year 1994.

## **DEPARTMENT OF CORRECTIONS — PAROLE AND COMMUNITY CORRECTIONS FUNDING HISTORY**

Parole supervision services and case managers for the community corrections transition population are funded through the Department of Corrections. Funding for the two programs was combined until FY 1993-94. This section reviews and analyzes the funding history for both programs. A ten-year review of the appropriations for parole and community corrections (FY 1986-87 through FY 1995-96) indicates that funding has increased by 186 percent. The total population served by these programs over the same period, however, actually *decreased* by 4.2 percent. (The population for FY 1995-96 is the projected population.) The DOC indicates that the increased funding in face of a declining population is attributable to two factors: (1) the caseload of parole officers in previous years was high. Additional parole officers were brought on line to reduce the caseload and improve the supervision and management of the population; and (2) enhanced parole services, such as intensive supervision parole, are more costly to maintain than the regular parole supervision services. The Intensive Supervision Parole (ISP) population, in particular, grew during the ten-year period.

Table 3.5 provides a ten-year history of the funding and caseload for parole and community services. The table illustrates how the caseload per FTE employee decreased over 50 percent during the ten-year period.

**Table 3.5: Overview of Parole and Community  
Corrections Transition Appropriations and Caseload**

	Parole Population (Year End)	Appropriation	FTE Employees	Community Transition Population (Year End)	Community Transition Appropriations	FTE Employees	Total Popula- tion	Total Appropriations	Total FTE Employees	Average Caseload Per FTE Employee
FY 86-87	2,989	\$2,571,885	70.0	298	NA	NA	3,287	\$2,571,885	70.0	47.0
FY 87-88	2,796	2,626,755	69.0	382	NA	NA	3,178	2,626,755	69.0	46.1
FY 88-89	2,073	2,515,288	66.0	531	NA	NA	2,604	2,515,288	66.0	39.5
FY 89-90	2,137	2,576,758	66.0	690	NA	NA	2,827	2,576,758	66.0	42.8
FY 90-91	1,990	3,847,619	85.0	756	NA	NA	2,746	3,847,619	85.0	32.3
FY 91-92	1,943	4,519,841	83.5	778	NA	NA	2,721	4,519,841	83.5	32.6
FY 92-93	2,116	4,327,393	80.0	730	NA	NA	2,846	4,327,393	80.0	35.6
FY 93-94	1,958	5,270,549	93.8	977	\$1,211,931	29.5	2,935	6,482,480	123.3	23.8
FY 94-95	2,026	5,258,118	93.8	1,009	1,361,442	31.5	3,035	6,619,560	125.3	24.2
FY 95-96*	2,108	\$5,403,623	93.8	1,041	\$1,958,184	39.1	3,149	\$7,361,787	132.9	23.7

\* Projected.

NA: Not Applicable.

Note: Until FY 1993-94, Parole and Community Corrections Transition appropriations and employees were combined.

The appropriations reflected in Table 3.5 have not been adjusted for inflation. Inflation-adjusted appropriations increased by 106 percent from FY 1986-87 to FY 1995-96. Table 3.6 and Graph 3.2 compare the total appropriations for parole and community corrections with the appropriations adjusted for inflation and the relevant population. The cumulative percentage increase over the base year is provided for the appropriations, as well as the parole and community corrections population.

**Table 3.6: Parole and Community Corrections  
Appropriations, Adjusted for Inflation, vs. Caseload**

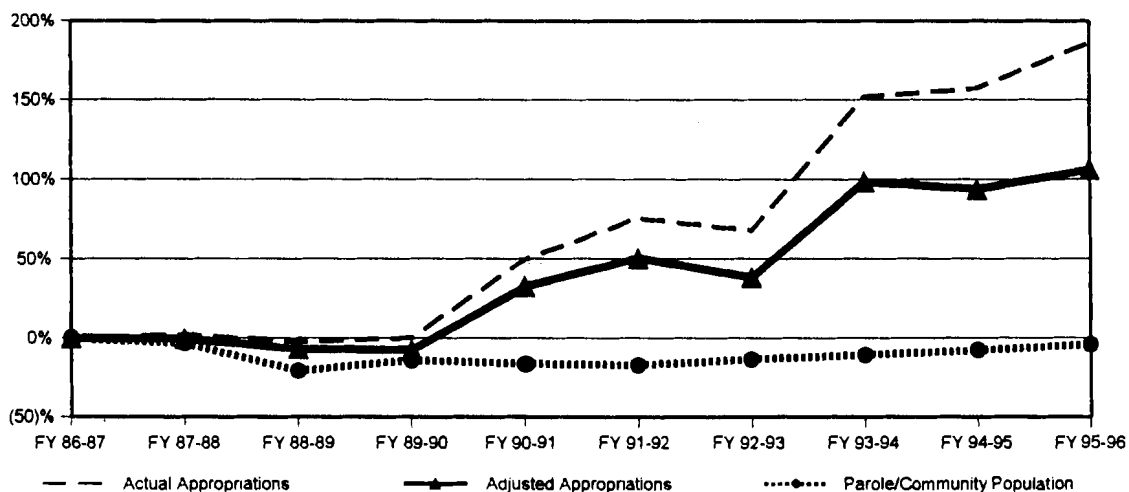
Fiscal Year	Actual Appropriations	Percent Increase Over FY 86-87	Inflation-Adjusted Appropriations (FY 86-87 Dollars)	Percent Increase Over FY 86-87	Parole and Community Correction Population (Year End)	Percent Increase Over FY 86-87
FY 86-87	\$2,571,885	NA	\$2,571,885	NA	3,287	NA
FY 87-88	2,626,755	2.1%	2,557,753	(0.6)%	3,178	(3.3)%
FY 88-89	2,515,288	(2.2)%	2,395,878	(6.8)%	2,604	(20.8)%
FY 89-90	2,576,758	0.2%	2,380,807	(7.4)%	2,827	(14.0)%
FY 90-91	3,847,619	49.6%	3,413,689	32.7%	2,746	(16.5)%
FY 91-92	4,519,841	75.7%	3,862,795	50.2%	2,721	(17.2)%
FY 92-93	4,327,393	68.3%	3,556,561	38.3%	2,846	(13.4)%
FY 93-94	6,482,480	152.1%	5,107,055	98.6%	2,935	(10.7)%
FY 94-95	6,619,560	157.4%	4,985,185	93.8%	3,035	(7.7)%
FY 95-96*	7,361,787	186.2%	5,303,105	106.2%	3,149	(4.2)%

NA: Not applicable.

Note: The Denver-Boulder consumer price index was used to adjust for inflation.

\* Projected.

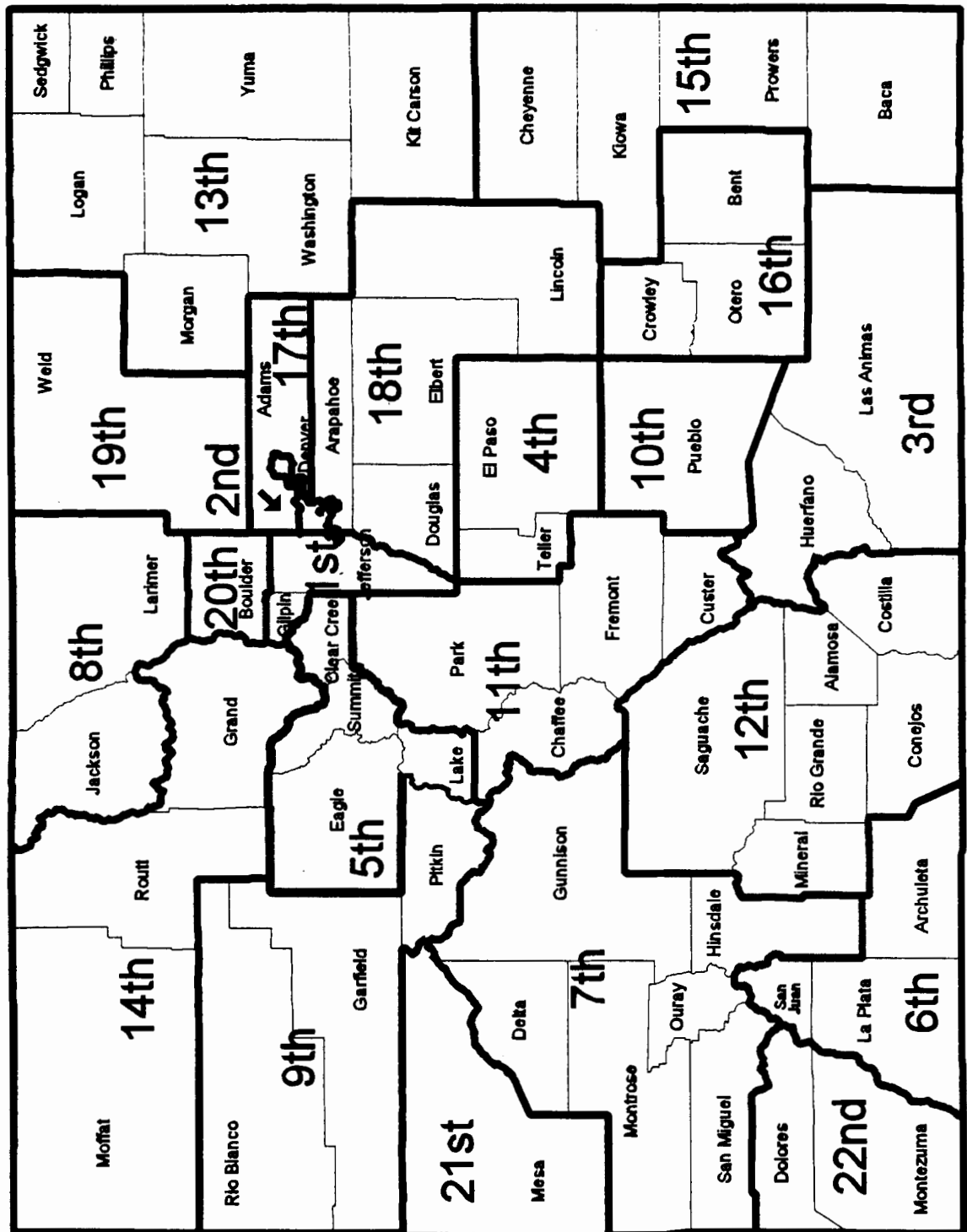
**Graph 3.2: Parole/Community Corrections Appropriations vs. Population  
Cumulative Percentage Increase Over FY 1986-87**



## **Chapter 4 — Probation Services — Judicial Branch**

Probation services are administered by the Judicial Branch. Each of Colorado's judicial districts has a probation department. In addition to the supervision of offenders, the probation departments are also responsible for submitting pre-sentence investigations to the courts. Probation services are under the direction of the chief judge and chief probation officer in each judicial district. The counties within each judicial district are provided in Graph 4.1 and Table 4.1.

# Judicial Districts of Colorado



**Table 4.1: Judicial Districts and Corresponding Counties**

<b>Judicial District</b>	<b>County</b>	<b>Judicial District</b>	<b>County</b>
<b>District 1</b>	Gilpin, Jefferson	<b>District 12</b>	Alamosa, Conejos, Costilla, Mineral, Rio Grande, Saguache
<b>District 2</b>	Denver	<b>District 13</b>	Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Yuma
<b>District 3</b>	Huerfano, Las Animas	<b>District 14</b>	Grand, Moffat, Routt
<b>District 4</b>	El Paso, Teller	<b>District 15</b>	Baca, Cheyenne, Kiowa, Prowers
<b>District 5</b>	Clear Creek, Eagle, Lake, Summit	<b>District 16</b>	Bent, Crowley, Otero
<b>District 6</b>	Archuleta, La Plata, San Juan	<b>District 17</b>	Adams
<b>District 7</b>	Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel	<b>District 18</b>	Arapahoe, Douglas, Elbert, Lincoln
<b>District 8</b>	Jackson, Larimer	<b>District 19</b>	Weld
<b>District 9</b>	Garfield, Pitkin, Rio Blanco	<b>District 20</b>	Boulder
<b>District 10</b>	Pueblo	<b>District 21</b>	Mesa
<b>District 11</b>	Chaffee, Custer, Fremont, Park	<b>District 22</b>	Dolores, Montezuma

## **PROBATION ELIGIBILITY**

All offenders are eligible to apply to the court to receive a sentence to probation, with the following exceptions:

- persons convicted of a class 1 felony;
- persons convicted of a class 2 petty offense;

- persons who have been twice previously convicted of a felony under the laws of this state, any other state, or the United States. This applies to convictions prior to the conviction for which the offender is applying for probation; or
- persons who have been convicted of one or more felonies in this state, any other state, or the United States within ten years of a class 1, class 2, or class 3 felony conviction.

The sentencing court may waive the restrictions on probation eligibility upon recommendation of the district attorney. The district attorney must show to the court that the defendant is a nonviolent offender, as defined in Section 16-11-101 (1) (b.5) (II) (B), C.R.S. The district attorney must also demonstrate that any prior felony convictions were not for:

- crimes of violence, as defined in Section 16-11-309 (2), C.R.S.;
- manslaughter, as defined in Section 18-3-104, C.R.S.;
- second degree burglary, as defined in Section 18-4-203, C.R.S.;
- theft if the object of value is more than \$400, as defined in Section 18-4-401 (2) (c), (2) (d), or (5), C.R.S.;
- a felony offense committed against a child; or
- crimes committed in other states, that if committed in this state would be a crime of violence, manslaughter, second degree burglary, robbery, theft of property worth \$400 or more, theft from the person of another by means other than the use of force, threat, or intimidation, or a felony offense committed against a child.

In addition to probation, the sentencing court has the power to commit the defendant to any jail operated by a county or city and county where the offense was committed. The length of the jail term may be for a set time, or for intervals, and is at the discretion of the court. The aggregate length of any jail commitment, continuous or at intervals, is not to exceed 90 days for a felony, 60 days for a misdemeanor, or 10 days for a petty offense. Offenders sentenced pursuant to a work release program are not subject to these time lines.



## **PROBATION GUIDELINES**

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Section 16-11-204, C.R.S., states that the conditions of probation shall be as the court, in its discretion, deems reasonably necessary to ensure that the defendant will lead a law-abiding life. Section 16-11-203, C.R.S., stipulates that the court may sentence an offender to probation, unless due to the nature and circumstances of the offense and due to the history and character of the defendant, the court determines that a sentence to the DOC is more appropriate. The statutes outline the factors that favor a prison sentence:

- there is undue risk that during the probation period the defendant will commit another crime;
- the defendant is in need of correctional treatment that is most effectively provided by the DOC as authorized by Section 16-11-101, C.R.S., (alternatives in sentencing);
- a sentence to probation would unduly depreciate the seriousness of the defendant's crime or undermine respect for the law;
- the defendant's past criminal record indicates that probation would fail to accomplish its intended purposes; or
- the crime, the facts surrounding it, or the defendant's history and character when considered in relation to statewide sentencing practices relating to persons in circumstances substantially similar to those of the defendant, do not justify the granting of probation.

When considering the factors above, the statutes further guide the sentencing court to weigh the following — the defendant('s):

- criminal conduct did not cause or threaten serious harm to another person or property;
- did not plan or expect that his/her conduct would cause or threaten serious harm to another person or property;
- acted under strong provocation;
- conduct was justified by substantial grounds though they were not sufficient for a legal defense;
- victim induced or facilitated the act committed;
- has no prior criminal history or has been law-abiding for a substantial period of time prior to the offense;

- will or has made restitution to the victim;
- conduct was the result of circumstances unlikely to recur;
- character, history, and attitudes indicate he/she is unlikely to reoffend;
- is likely to respond favorably to probationary treatment;
- imprisonment would entail undue hardship to him or herself or dependents;
- is elderly or in poor health;
- did not abuse a position of public trust or responsibility; or
- cooperated with law enforcement authorities in bringing other offenders to justice.

Once placed on probation, Section 16-11-204, C.R.S., stipulates that the court may, as a condition of probation, require that the defendant:

- work faithfully at suitable employment or pursue a course of study or vocational training to equip the defendant for suitable employment;
- undergo available medical or psychiatric treatment;
- attend or reside in a facility established for the instruction, recreation, or residence of persons on probation;
- support the defendant's dependents and meet other family responsibilities, including a payment plan for child support;
- pay reasonable costs of court proceedings or costs of probation supervision;
- pay any fines or fees imposed by the court;
- repay all or part of any reward paid by a crime stopper organization;
- refrain from possessing a firearm, destructive device, or any other dangerous weapon;
- refrain from excessive use of alcohol or any unlawful use of a controlled substance;
- report to a probation officer at reasonable times, as directed by the court;

- remain within the jurisdiction of the court, unless granted permission to leave;
- answer all reasonable inquiries by the probation officer and justify to the officer any change of address or employment;
- be subject to home detention;
- be restrained from contact with the victim or victim's family members for crimes involving domestic violence; and
- satisfy any other conditions reasonably related to the defendant's rehabilitation.

## **PROBATION POPULATION**

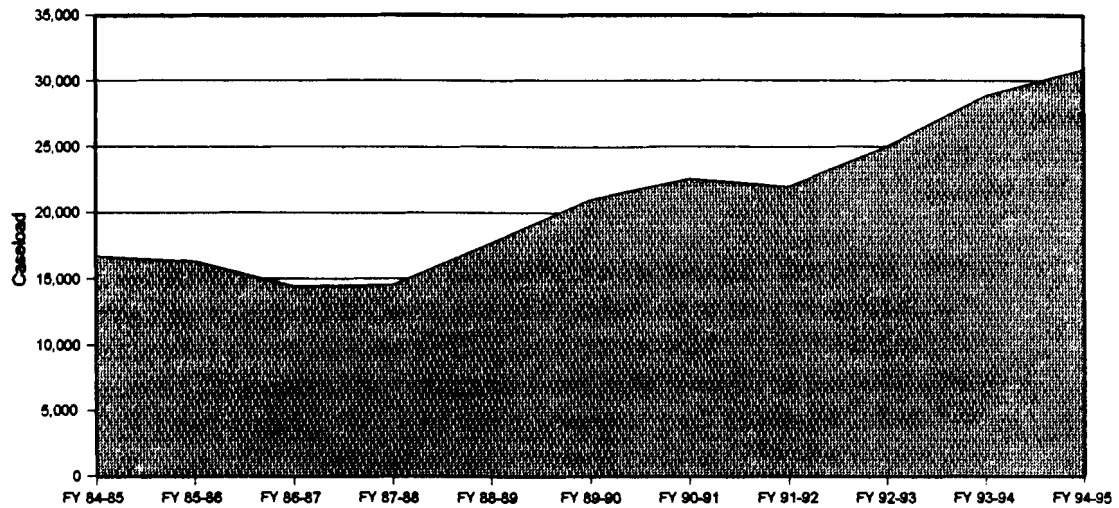
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The probation population grew 84.6 percent from fiscal year end 1984-85 to fiscal year end 1994-95 (from 16,731 offenders to 30,891). Much of the increase is attributed to increased criminal filings. Meanwhile, not only has the legislature increased funding for prisons during the past several years, but it has also funded more probation slots, particularly intensive supervision probation (ISP) slots. House Bill 95-1352 funded 750 additional ISP slots, to be phased in over three years. Table 4.2 and Graphs 4.2 and 4.3 provide a ten-year history of the caseload and illustrate the growth during the same time period.

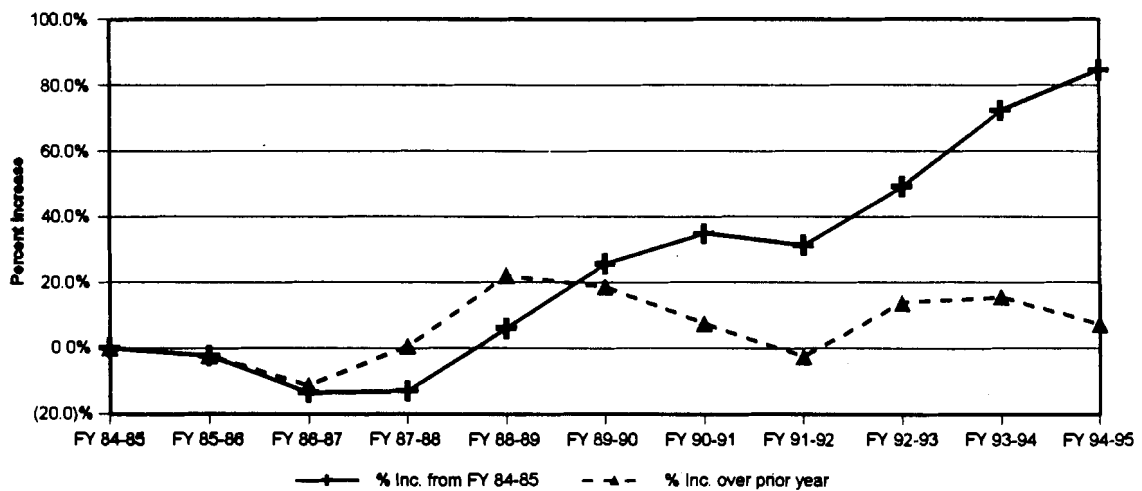
**Table 4.2: Ten-Year History of Probation Caseload**

<b>Fiscal Year</b>	<b>Probation Caseload (year end)</b>	<b>Cumulative Percentage Increase Over FY 1984-85</b>
FY 84-85	16,731	N/A
FY 85-86	16,335	(2.4)%
FY 86-87	14,456	(13.6)%
FY 87-88	14,532	(13.1)%
FY 88-89	17,728	6.0%
FY 89-90	21,023	25.7%
FY 90-91	22,567	34.9%
FY 91-92	21,966	31.3%
FY 92-93	24,965	49.2%
FY 93-94	28,836	72.4%
FY 94-95	30,891	84.6%

**Graph 4.2: Probation Caseload History  
FY 1984-85 through FY 1994-95**



**Graph 4.3: Probation Caseload Cumulative Percent Increase  
FY 1984-85 through FY 1994-95**



## **SPECIALIZED PROBATION PROGRAMS**

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The probation department offers three main specialized probation programs for adult offenders: Adult Intensive Supervision Probation Program (ISP), Specialized Drug Offender Program, and the Female Offender Program. All of the programs have been implemented, at least on a pilot basis, since 1984. The data provided below were obtained from the Office of Probation Services, *Annual Report of Special Probation Program*, 1994. This is the most recent annual report available and pertains to FY 1993-94.

- 1) ***Adult Intensive Supervision Probation*** — the ISP program involves enhanced supervision of offenders who are considered high risk and without this program, might be incarcerated. ISP provides more frequent contact with probation officers than those on regular probation. The caseload is . ISP was implemented on a statewide basis in 1988. Data from FY 1993-94 indicate that 946 offenders were supervised under ISP and the average length of stay on ISP is 365 days (1 year). For FY 1993-94, 415 offenders were terminated and 216, or 52 percent, of the terminations were successful. Unsuccessful terminations may be the result of revocations due to new crimes, the conditions of probation were violated, or escape.
- 2) ***Specialized Drug Offender Program*** — the goal of the Specialized Drug Offender Program is to provide an intensive form of probation supervision to high-risk, substance abusing offenders whose probability of failure on probation is significant. The program was developed in 1991 as a response to an increased number of severe drug and substance abuse offenders who were placed on ISP. The program primarily consists of 35 two-hour sessions (70 hours total) focusing on cognitive skills training to assist with behavior modification. Offenders are also subject to random drug testing. The program provided intensive supervision and treatment intervention to 761 offenders in FY 1993-94. There were 241 terminations, 133 of which were successful (55.2 percent success rate).
- 3) ***Female Offender Program*** — the goal of the Female Offender Program is to provide specialized services in five urban judicial districts for training and referrals for female offenders who have failed other programs. The program is provided in the 1st, 2nd, 4th, 17th, and 18th judicial districts, which incorporates: Gilpin, Jefferson, Denver, El Paso, Teller, Adams, Arapahoe, Douglas, Elbert, and Lincoln counties. The program provides direct short-term intervention, gender specific treatment referral, and group activities for women facing revocation within other specialized programs. The Office of Probation Services indicates that the profile of the female offender is different than that of the male offender, thus creating the need for a specialized program. Statistics from the Judicial Branch, as obtained by the National Women's Law Center, on female offenders disclose that 40 percent of women in prison have a history of physical or sexual abuse

before the age of 18; 53 percent were unemployed when arrested and 80 percent had physical custody of their children at the time of incarceration. For FY 1993-94, 309 females were supervised under the program. For that year, there were 129 terminations and 59 were successful (45.7 percent success rate).

## JUDICIAL BRANCH PROBATION FUNDING HISTORY

The Judicial Branch, Office of Probation Services, receives funding in the Long Bill for adult probation-related activities. A ten-year review of the actual expenditures for probation (FY 1985-86 through FY 1995-96) shows that funding increased by 148 percent. The total probation population during the same period increased by 102 percent. For FY 1995-96, a projected population is utilized. However, when the expenditures are adjusted for inflation, the budget actually increased only 52 percent. The number of FTE employees assigned to probation also grew over the ten-year period. For FY 1985-86, the office was assigned 370.5 FTE employees versus 568.7 for FY 1995-96, an increase of 53.5 percent.

Table 4.3 provides a ten-year history of the funding, caseload, and FTE for probation. The table illustrates that the caseload per FTE employee increased 31 percent over the ten-year period. Table 4.4 compares the total appropriations for probation to the appropriations adjusted for inflation. The table also provides the cumulative percentage increases for the expenditures, probation population, and FTE relative to FY 1985-86.

**Table 4.3: Probation Expenditures and Caseload**

<b>Fiscal Year</b>	<b>Probation Population (year end)</b>	<b>Expenditure</b>	<b>FTE Employees</b>	<b>Average Caseload Per FTE Employee</b>
FY 85-86	16,335	\$12,607,573	370.5	44.1
FY 86-87	14,456	13,976,139	386.0	37.5
FY 87-88	14,532	15,146,856	407.5	35.7
FY 88-89	17,728	15,930,027	430.5	41.2
FY 89-90	21,023	16,651,218	430.5	48.8
FY 90-91	22,567	18,314,079	465.0	48.5
FY 91-92	21,966	22,791,710	479.0	45.9
FY 92-93	24,965	23,959,483	483.0	51.7
FY 93-94	28,836	24,776,774	514.6	56.0
FY 94-95	30,891	28,361,075	537.3	57.5
<b>FY 95-96*</b>	<b>32,948</b>	<b>\$31,270,752</b>	<b>568.7</b>	<b>57.9</b>

\* Projected.

**Table 4.4: Probation Expenditures, Adjusted for Inflation, and Caseload**

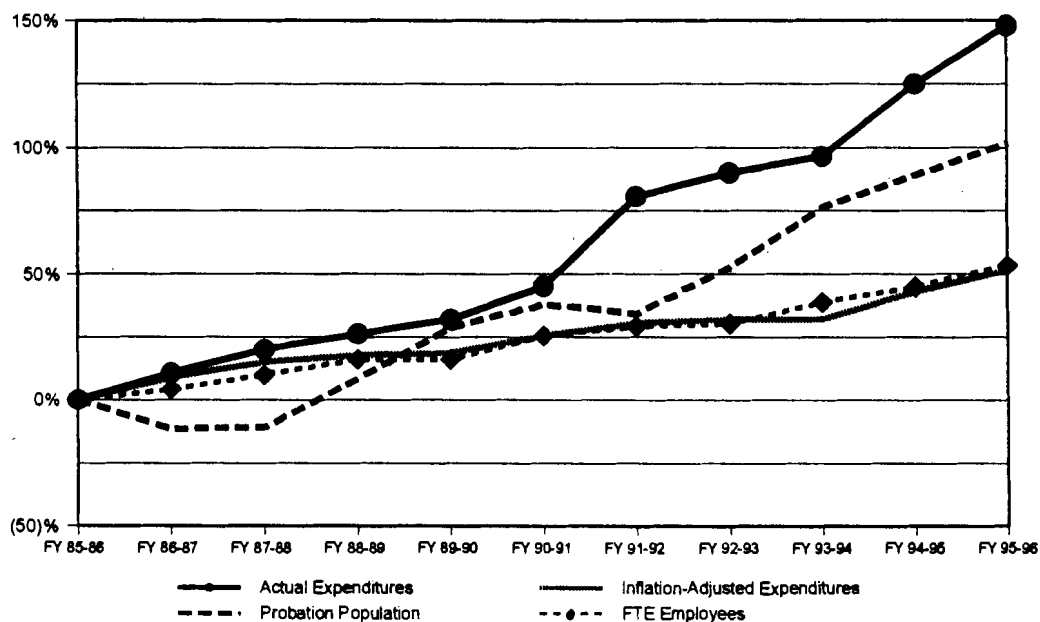
Fiscal Year	Actual Expenditures	% Inc. Over FY 85-86	Inflation-Adjusted Expend. (FY 85-86 Dollars)	% Inc. Over FY 85-86	Probation Population (Year End)	% Inc. Over FY 85-86	FTE Employment	% Inc. Over FY 85-86
FY 85-86	\$12,607,573	N/A	\$12,607,573	N/A	16,335	N/A	370.5	N/A
FY 86-87	13,976,139	10.9%	13,739,689	9.0%	14,456	(11.5)%	386.0	4.2%
FY 87-88	15,146,856	20.1%	14,499,439	15.0%	14,532	(11.0)%	407.5	10.0%
FY 88-89	15,877,456	26.4%	14,867,827	17.9%	17,728	8.5%	430.5	16.2%
FY 89-90	16,468,777	32.1%	14,958,965	18.7%	21,023	28.7%	430.5	16.2%
FY 90-91	18,158,157	45.3%	15,837,743	25.6%	22,567	38.2%	465.0	25.5%
FY 91-92	19,592,156	80.8%	16,460,780	30.6%	21,966	34.5%	479.0	29.3%
FY 92-93	20,598,484	90.0%	16,642,894	32.0%	24,965	52.8%	483.0	30.4%
FY 93-94	21,513,956	96.5%	16,662,466	32.2%	28,836	76.5%	514.6	38.9%
FY 94-95	24,385,543	125.0%	18,054,035	43.2%	30,891	89.1%	537.3	45.0%
<b>FY 95-96*</b>	<b>\$26,989,379</b>	<b>148.0%</b>	<b>\$19,113,032</b>	<b>51.6%</b>	<b>32,948</b>	<b>101.7%</b>	<b>588.7</b>	<b>53.5%</b>

\* Projected.

Note: The Denver-Boulder consumer price index was used to adjust for inflation.

Graph 4.4 illustrates and compares the ten-year funding history, with the probation caseload and FTE employment based on the cumulative percentage increase over the base year. The graph also includes inflation-adjusted expenditures. Graph 4.4 illustrates that, when adjusted for inflation, the growth in the probation population has outpaced the growth in expenditures.

**Graph 4.4: Probation Expenditures vs. Caseload  
Cumulative Percentage Increase Over FY 1985-86**



## **Chapter 5 — Community Corrections**

The purpose of this chapter is to provide an overview of the community corrections system in Colorado. This chapter is divided into six major categories as follows:

- Statutory Authorization
- Offenders Eligible for Community Corrections Placement
- Community Corrections Boards
- Role of the Division of Criminal Justice
- Community Corrections Population Data
- Community Corrections Funding History



## **STATUTORY AUTHORIZATION**

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Article 27 of Title 17, C.R.S., provides the statutory authorization for community corrections in Colorado. The statutes give local governments the authority to designate the programs, boards, and networks to address local criminal justice needs. Section 17-27-102 (3), C.R.S., defines "community corrections program" as a community-based or community-oriented program that provides supervision of offenders. The program may be operated by a local government unit, the Department of Corrections (DOC), or any private individual, partnership, corporation, or association.

Community corrections programs may:

- (1) provide residential or nonresidential services for offenders;
- (2) monitor offender activities;
- (3) provide oversight of victim restitution and community service programs;
- (4) aid offenders in obtaining and holding regular employment;
- (5) aid offenders in enrolling in and maintaining academic courses;
- (6) aid offenders in participating in vocational training programs;
- (7) aid offenders in utilizing the resources of the community;
- (8) help to meet the personal and family needs of offenders;
- (9) aid offenders in obtaining appropriate treatment;
- (10) aid offenders in participating in whatever specialized programs exist within the community; and
- (11) provide other services and programs as may be appropriate to aid in offender rehabilitation and public safety.

Any unit of local government or authorized state agency may establish, maintain, and operate community corrections programs. A nongovernmental agency may contract with the state or a local government to provide services to offenders assigned to the community corrections program.

## **OFFENDERS ELIGIBLE FOR COMMUNITY CORRECTIONS PLACEMENT**

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Community corrections clients are categorized as either diversion or transition clients. Diversion clients are those offenders sentenced directly by the courts to community corrections programs or sentenced as a condition of probation. These offenders are "diverted" from incarceration to the DOC. Transition clients are those offenders referred from the DOC, including those on parole, as a means of allowing an offender to transition back into the community after prison incarceration. Further detail on the guidelines for referring offenders, by referral source, follows.

***District court diversion.*** Any district court judge may refer any offender convicted of a felony to a community corrections program unless the offender is required to be sentenced pursuant to Section 16-11-309 (1), C.R.S. This section pertains to crimes of violence and carries mandatory sentences for violent crimes. A crime of violence is defined as a crime committed, conspired to be committed, or attempted to be committed by a person during which, or in the immediate flight therefrom, the person: (a) used, or possessed and threatened the use of, a deadly weapon; or (b) caused serious bodily injury or death to any other person except another participant. These crimes of violence include the following crimes:

- (a) any crime against an at-risk adult (anyone 60 years of age or older or 18 years of age or older with a disability) or an at-risk juvenile (anyone under 18 years of age with a disability);
- (b) murder;
- (c) first or second degree assault;
- (d) kidnapping;
- (e) sexual assault;
- (f) aggravated robbery;
- (g) first degree arson;
- (h) first degree burglary;
- (i) escape;
- (j) criminal extortion; or
- (k) any unlawful sexual offense in which the defendant caused bodily injury to the victim or in which the defendant used threat, intimidation, or force against the victim pursuant to Section 18-3-411 (1), C.R.S.

In sentencing an offender directly to a community corrections program, the sentencing court specifies the term, length, and conditions of that offender's stay in the community corrections program. The offender may also be referred to the program as a condition of probation. These diversion clients are subject to approval by the community corrections board. An offender sentenced directly to community corrections by the sentencing court is eligible for earned time credit reductions of ten days per month.

If an offender is rejected by the community corrections board, the court must promptly resentence the offender to the DOC, probation, or any other appropriate sentence. An additional hearing is not needed and the court may not resentence the offender to a sentence which exceeds the original sentence imposed.

***Department of Corrections transition.*** The DOC executive director may transfer any offender to a community corrections program provided the offender is accepted by the community corrections board and the program supervisor. Criteria for offender placement are as follows:

- (1) Offenders may be placed within 16 months prior to their parole eligibility date (PED) if they have displayed acceptable institutional behavior. However, this does not apply to offenders serving a sentence imposed pursuant to Section 16-11-309, C.R.S. (crimes of violence), offenders with an active felony warrant or detainer, or offenders who refuse community placement. The DOC executive director is required, by statute, to refer all offenders 16 months prior to their PED if they have displayed acceptable institutional behavior.
- (2) All offenders shall be referred for community placement within 180 days prior to the offender's PED if such offender has displayed acceptable institutional behavior. An offender may not be placed if he has an active felony warrant or detainer against him, or if he has refused community placement.

***State Board of Parole diversion.*** The State Board of Parole may refer any parolee for community corrections placement as a condition of release on parole, as a modification of the parole conditions after release, or upon temporary revocation of parole.

## **COMMUNITY CORRECTIONS BOARDS**

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Placement of an offender in a local community corrections program is contingent upon approval by the local community corrections board. The board has the authority to accept or reject any offender referred for placement in a community corrections program. The board must provide written acceptance criteria and screening procedures to each agency that makes referrals to community corrections programs. The board may establish conditions or guidelines for offender conduct in the programs and such guidelines are made available to offenders placed in the program.

A community corrections board may be established by resolution or ordinance of a governing body (county, city and county, city, town, or service authority). The board may be advisory to the governing body or function independently. Other functions, powers, and duties of the boards are as follows. They may:

- enter into contracts with the state, receive governmental and private grants, and receive court-authorized expense reimbursement;
- establish community corrections programs to be operated by units of local governments or state agencies;
- establish and enforce standards for the operation of any community corrections program located within its jurisdiction. Standards may exceed, but are not to conflict with, standards established by the Division of Criminal Justice in the Department of Public Safety;
- refuse an offender after acceptance, subject to an administrative review process, and refer him back to the courts for sentencing; and
- approve or disapprove the establishment and operation of all community corrections programs.

## **COMMUNITY CORRECTIONS PROGRAM OPERATION**

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Any nongovernmental agency may establish and operate a community corrections program under contract with a state agency or local government unit. Community corrections program administrators have the authority to accept or reject any offender referred for placement. Screening procedures are established in coordination with the community corrections boards. Administrators establish conduct guidelines that do not conflict with those established by the boards. Further, administrators may reject, after acceptance, and terminate the placement of any offender who violates established conditions or guidelines. Offenders who are rejected are

eligible for administrative review. Once placed in a program, the administrator must document the number of residential days completed by offenders sentenced directly by the courts and the time credits granted to each offender.

When an administrator believes that an offender violation has occurred, the appropriate judicial or executive authority is notified. The offender may then be transferred to a county jail pending a hearing to determine future placement.

## **ROLE OF THE DIVISION OF CRIMINAL JUSTICE**

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The Division of Criminal Justice (DCJ) is responsible for administering and executing all contracts with local government units, community corrections boards, and nongovernmental agencies. Standards for community corrections programs are established by the DCJ. Such standards prescribe minimum levels of offender supervision and services, facility health and safety conditions, and other quality of services issues. Standards may be revised after consultation with referring agencies, community corrections boards, and community corrections administrators.

Community corrections program audits are conducted by the DCJ to determine the level of program compliance. Such audits occur once every three years. The executive director of the Department of Public Safety has the authority to waive the audit. Technical assistance to the boards and programs is provided by the DCJ.

Appropriation allocations to the local boards and community corrections programs are determined by the DCJ. The method of allocation considers offender population distributions and support program availability proportionate to such distribution, as well as projected need. Five percent of appropriated costs, as authorized by the DCJ, may be used for administrative costs. The Long Bill contains separate line items for diversion and transition offenders. Of the amount appropriated by the General Assembly for diversion and transition offenders, DCJ may transfer up to 10 percent of the appropriation between programs (line item transfers). The state General Fund provides a great majority of the funding to community corrections programs. However, in some instances, counties contribute additional costs for programs services. Furthermore, offenders are required to pay a daily fine of \$2.00 toward program services.

## COMMUNITY CORRECTIONS POPULATION DATA

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The most recent community corrections demographic data from the DCJ are available only for FY 1993-94, whereas overall population counts are available from June 1986 through June 1995. Table 5.1 summarizes the community corrections population from June 1986 through June 1995. For FY 1993-94, 60 percent of the community corrections population was diversion offenders (sentenced directly by the courts) and 38 percent was transition offenders (transferred from DOC). The residential diversion population accounts for the largest share of community corrections population (34 percent), followed by nonresidential diversion (27 percent), and residential transition (26 percent). Tables 5.2 through 5.4 summarize the characteristics of the community corrections population for FY 1992-93 and FY 1993-94, as provided by the DCJ. The main points reflected in the tables are highlighted prior to each table.

Since June 1986, the community corrections population increased by 180.2 percent (Table 5.1 and Graph 5.1). The largest numerical increase was in the residential *diversion* population which increased by 475 clients, whereas the largest percentage increase (183 percent) was as a condition of parole.

Relative to the community corrections population as a whole, the residential *transition* population declined over the past five years from 29.0 percent to 25.9 percent of the total community corrections population (Table 5.1).

**Table 5.1: Community Corrections Population History**

Quarter Ending	Residential		Condition of		Nonres. Diversion	Nonres. Transition	Total	Percent Increase Over June 1986
	Diversion	Transition	Probation	Parole				
June 1986 % of Total	379 41.7%	264 29.0%	NA	NA	266 29.3%	NA	909	NA
June 1987 % of Total	503 45.2%	298 26.8%	6 0.5%	NA	305 27.4%	NA	1,112	22.3%
June 1988 % of Total	431 33.3%	382 29.5%	2 0.2%	NA	481 37.1%	NA	1,296	42.6%
June 1989 % of Total	545 33.0%	519 31.4%	2 0.1%	12 0.7%	575 34.8%	NA	1,653	81.9%
June 1990 % of Total	612 31.2%	591 31.3%	7 0.4%	25 1.3%	653 34.6%	NA	1,888	107.7%
June 1991 % of Total	619 30.4%	659 32.4%	27 1.3%	19 0.9%	713 35.0%	NA	2,037	124.1%
June 1992 % of Total	707 32.1%	688 31.2%	42 1.9%	30 1.4%	737 33.4%	NA	2,204	142.5%
June 1993 % of Total	760 34.5%	688 31.2%	1 0.1%	32 1.5%	725 32.9%	NA	2,206	142.7%
June 1994 % of Total	820 32.4%	677 26.7%	4 0.2%	54 2.1%	732 28.9%	246 9.71%	2,533	178.7%
June 1995 % of Total	854 33.5%	659 25.9%	8 0.3%	46 1.8%	676 26.5%	304 11.9%	2,547	180.2%
Total 10-Year Growth	475	395	2	34	410	58	1,638	
10-Year Percent Increase	125.3%	149.6%	33.3%	183.3%	154.1%	23.6%	180.2%	

NA: Not available.

Source: Division of Criminal Justice.

**Graph 5.1: Community Corrections Population History  
June 1986 through June 1995**

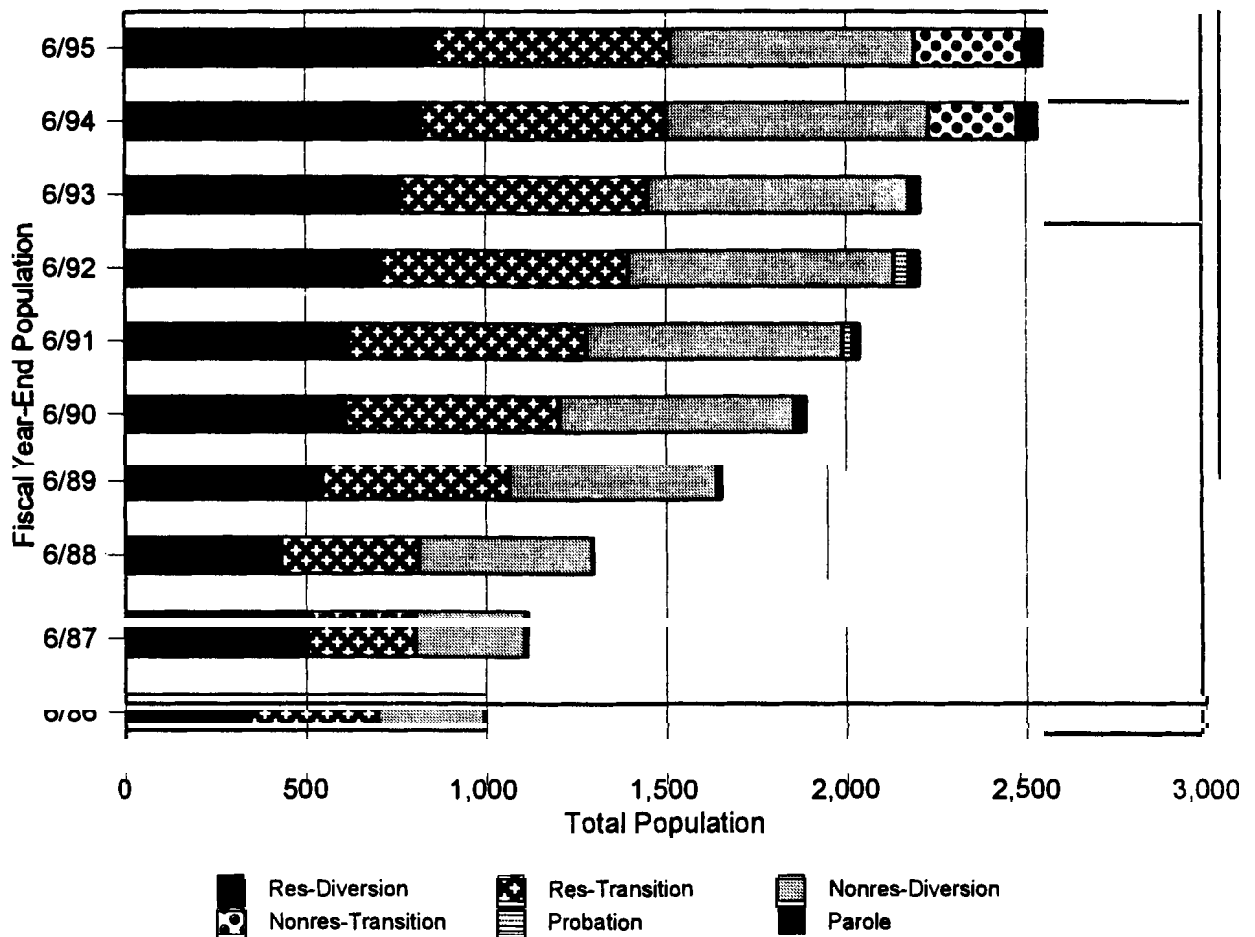


Table 5.2 notes the community corrections offender ethnicity characteristics for FY 1992-93 and FY 1993-94. The data indicate that Anglos constitute the largest offender group for both offender populations: diversion and transition. However, Anglos decreased from 53 percent of the total population in FY 1992-93 to 50.4 percent in FY 1993-94. Conversely, the Black population increased over that time period from 20.9 to 24.5 percent of the total community corrections population. The Hispanic population remained stable in relation to the total population.



**Table 5.2: Community Corrections Offender Characteristics:  
Ethnicity, FY 1992-93 and FY 1993-94**

Race	Diversion		Transition		Overall			
	FY 93	FY 94	FY 93	FY 94	FY 93	% of Total	FY 94	% of Total
Anglo	768	878	700	764	1,468	53.05%	1,642	50.35%
Black	285	420	293	379	578	20.89%	799	24.50%
Hispanic	355	403	296	358	651	23.53%	761	23.34%
Other	33	28	37	31	70	2.53%	59	1.81%
Total	1,441	1,729	1,326	1,532	2,767		3,261	

Source: Division of Criminal Justice.

Table 5.3 addresses the FY 1992-93 and FY 1993-94 community corrections population for transition and diversion clients by gender. The distribution of males to females remained relatively constant over the two-year period. Overall, for FY 1993-94, males accounted for 85.4 percent of the population and females accounted for 14.6 percent of the population. It should be noted, however, that the female population did increase over the time period as a percentage of the population, by 1.3 percentage points.

**Table 5.3: Community Corrections Offender Characteristics:  
Gender, FY 1992-93 and FY 1993-94**

Gender	Diversion		Transition		Overall			
	FY 93	FY 94	FY 93	FY 94	FY 93	% of Total	FY 94	% of Total
Male	1,209	1,451	1,199	1,339	2,408	86.74%	2,790	85.40%
Female	233	281	135	196	368	13.26%	477	14.60%
Total	1,442	1,732	1,334	1,535	2,776		3,267	

Source: Division of Criminal Justice.

Table 5.4 highlights the age range of offenders placed in diversion and transition community corrections programs. For the population as a whole, offenders aged 26- to 30-years old were the largest group in FY 1992-93 and FY 1993-94. However, in relation to all age groups, the 26- to 30-year olds constituted a smaller share of the population in FY 1993-94 (23.9 percent) than in FY 1992-93 (25.7 percent). Both the 36- to 40-year-old age group and the 40-and-over age group grew significantly. In FY 1992-93, the community corrections population aged 36 and over totaled 618 offenders (22.5 percent of the population). This population grew to 831 offenders in FY 1993-94 (25.6 percent of the population).

**Table 5.4: Community Corrections Offender Characteristics:  
Age Range, FY 1992-93 and FY 1993-94**

Age at Entry	Diversion		Transition		Overall			
	FY 93	FY 94	FY 93	FY 94	FY 93	% of Total	FY 94	% of Total
18-20	131	154	34	33	165	6.0%	187	5.8%
21-25	385	428	288	311	673	24.5%	739	22.8%
26-30	334	404	372	371	706	25.7%	775	23.9%
31-35	278	345	304	366	582	21.2%	711	21.9%
36-40	148	199	174	222	322	11.7%	421	13.0%
40 +	149	191	147	219	296	10.8%	410	12.6%
Total	1,425	1,721	1,319	1,522	2,744	100.0%	3,243	100.0%

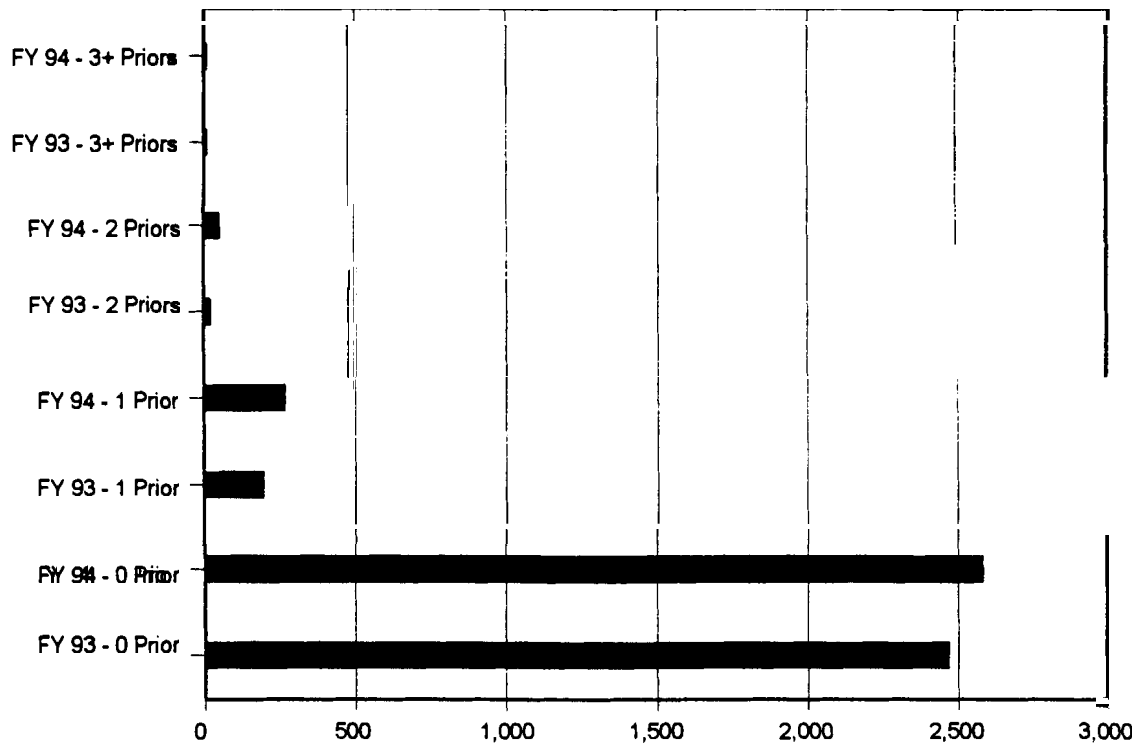
Source: Division of Criminal Justice.

Graphs 5.2 and 5.3 illustrate the criminal history of offenders in community corrections for FY 1992-93 and FY 1993-94. The vast majority of offenders in community corrections are offenders without any prior violent convictions.

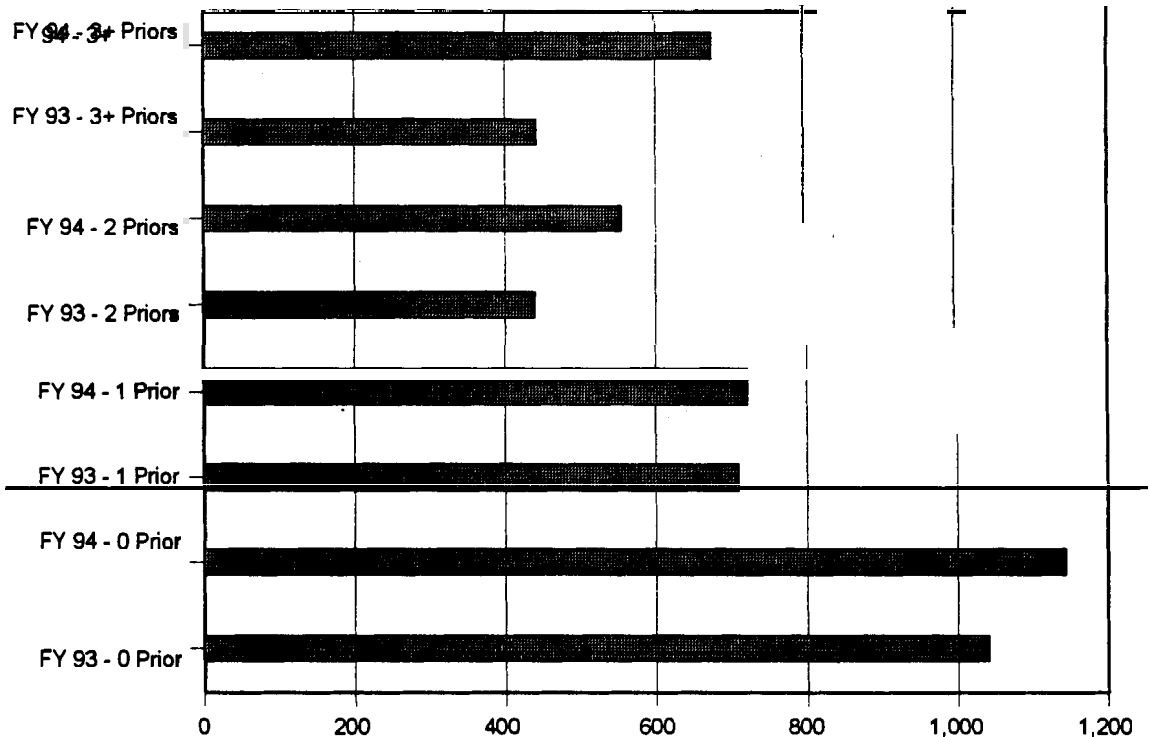
Graph 5.2 pertains to prior violent convictions. It demonstrates that once an offender has committed a violent offense, the chances for placement in community correction drops significantly.

Graph 5.3 pertains to the same population, but categorizes the offenders according to prior felony convictions. This graph indicates that prior felony convictions are not as great a deterrent to being placed in a community corrections setting as prior violent offenses.

**Graph 5.2: Community Corrections Offender Characteristics  
Prior Violent Convictions (FY 1992-93 and FY 1993-94)**

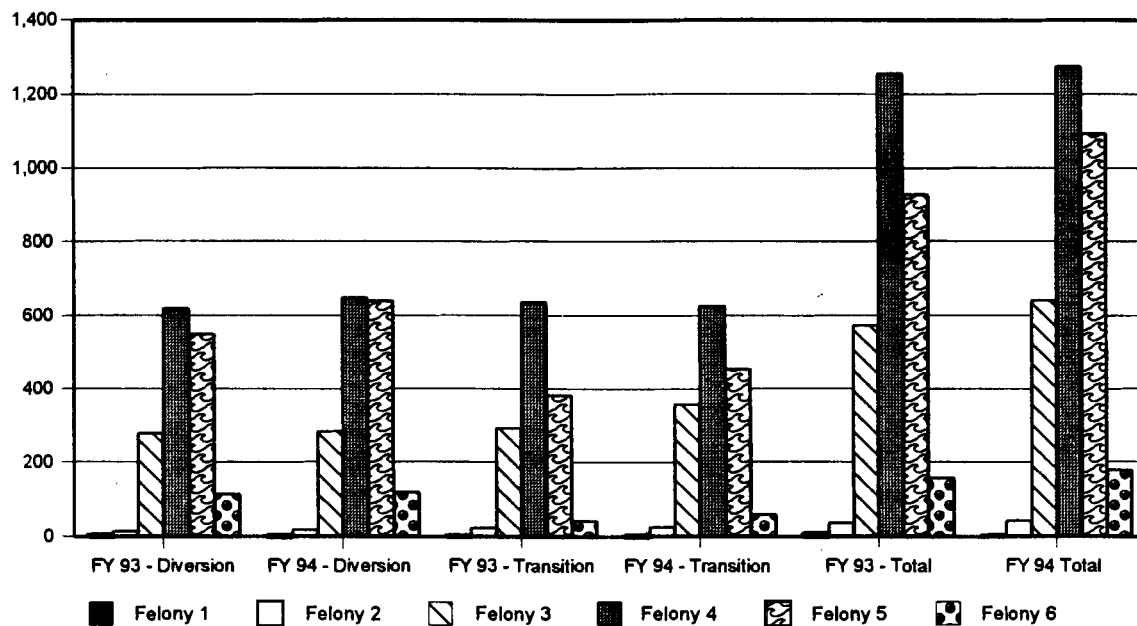


**Graph 5.3: Community Corrections Offender Characteristics  
Prior Felony Convictions (FY 1992-93 and FY 1993-94)**



Graph 5.4 highlights the current felony offense class for offenders sentenced to community corrections. The largest proportion of offenders were convicted of class 4 felonies: 42.4 percent in FY 1992-93 and 39.4 percent in FY 1993-94. Class 4 felonies, however, declined as a percentage of the total community corrections population between FY 1992-93 and FY 1993-94. Conversely, the percentage of class 5 felonies increased from 31.4 percent in FY 1992-93 to 33.8 percent in FY 1993-94.

**Graph 5.4: Community Corrections Offender Characteristics  
Current Offense Class (FY 1992-93 and FY 1993-94)**



## DIVISION OF CRIMINAL JUSTICE COMMUNITY CORRECTIONS FUNDING HISTORY

The DCJ receives funding in the Long Bill for adult community corrections programs. A ten-year review of the actual expenditures for community corrections (FY 1986-87 through FY 1995-96) indicates that funding rose by 152 percent. The total population over the same period increased by 140 percent. (The population used for FY 1995-96 is a projection.) However, when the expenditures are adjusted for inflation, the budget actually only increased by 82 percent. Table 5.5 provides a ten-year history of the funding and caseload for community corrections. The table also adjusts the appropriations for inflation.

**Table 5.5: Community Corrections Expenditures and Caseload**

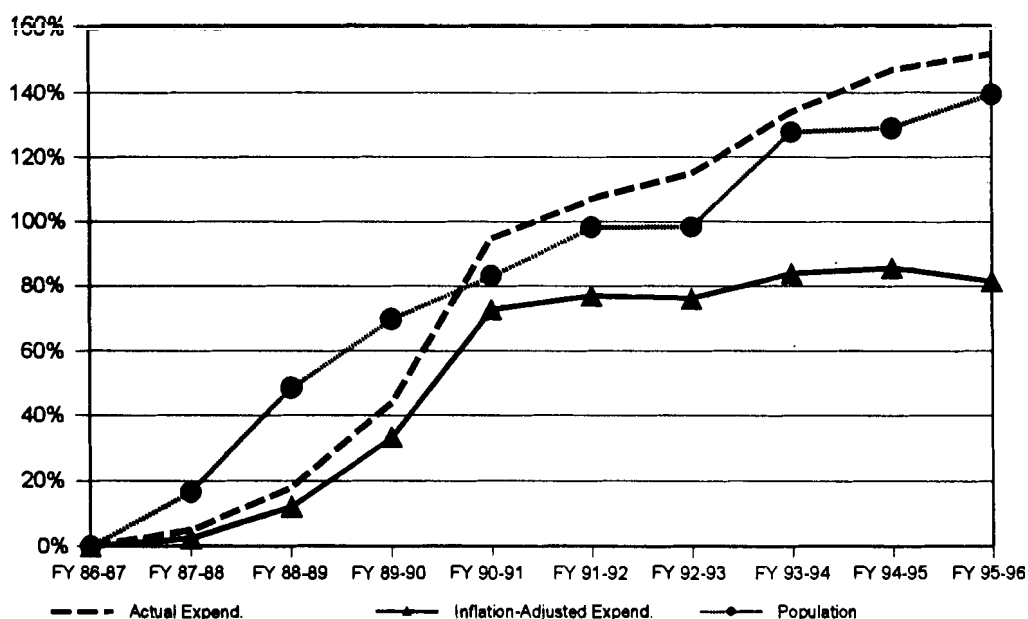
		% Inc.	CPI	% Inc.	Comm.	% Inc.
Year	Expenditures	FY 86-87	Expend.	FY 86-87	(FY 86-87)	FY 86-87
FY 86-87	9,487,814	NA	9,487,814	NA	1,112	NA
FY 87-88	9,980,635	5.2%	9,718,454	2.4%	1,296	16.6%
FY 88-89	11,168,303	17.7%	10,638,100	12.1%	1,653	48.7%
FY 89-90	13,691,512	44.3%	12,650,332	33.3%	1,888	69.8%
FY 90-91	18,467,001	94.6%	16,384,313	72.7%	2,037	83.2%
FY 91-92	19,654,085	107.2%	16,796,985	77.0%	2,204	98.2%
FY 92-93	20,356,082	114.6%	16,713,696	76.2%	2,206	98.4%
FY 93-94	22,151,971	133.5%	17,451,859	83.9%	2,533	127.8%
FY 94-95	23,393,254	146.6%	17,617,440	85.7%	2,547	129.0%
FY 95-96 *	23,921,600	152.1%	17,232,062	81.6%	2,663	139.5%

NA: Not applicable.

Note: The Denver-Boulder consumer price index was used to adjust for inflation.

Graph 5.5 illustrates and compares the ten-year funding history with the community corrections caseload. The graph compares the data based on the cumulative percentage increase over the base year. The graph illustrates that, when adjusted for inflation, the growth in the community corrections population has outpaced the growth in expenditures.

**Graph 5.5: Community Corrections Expenditures vs. Caseload  
Cumulative Percentage Increase Over FY 1986-87**

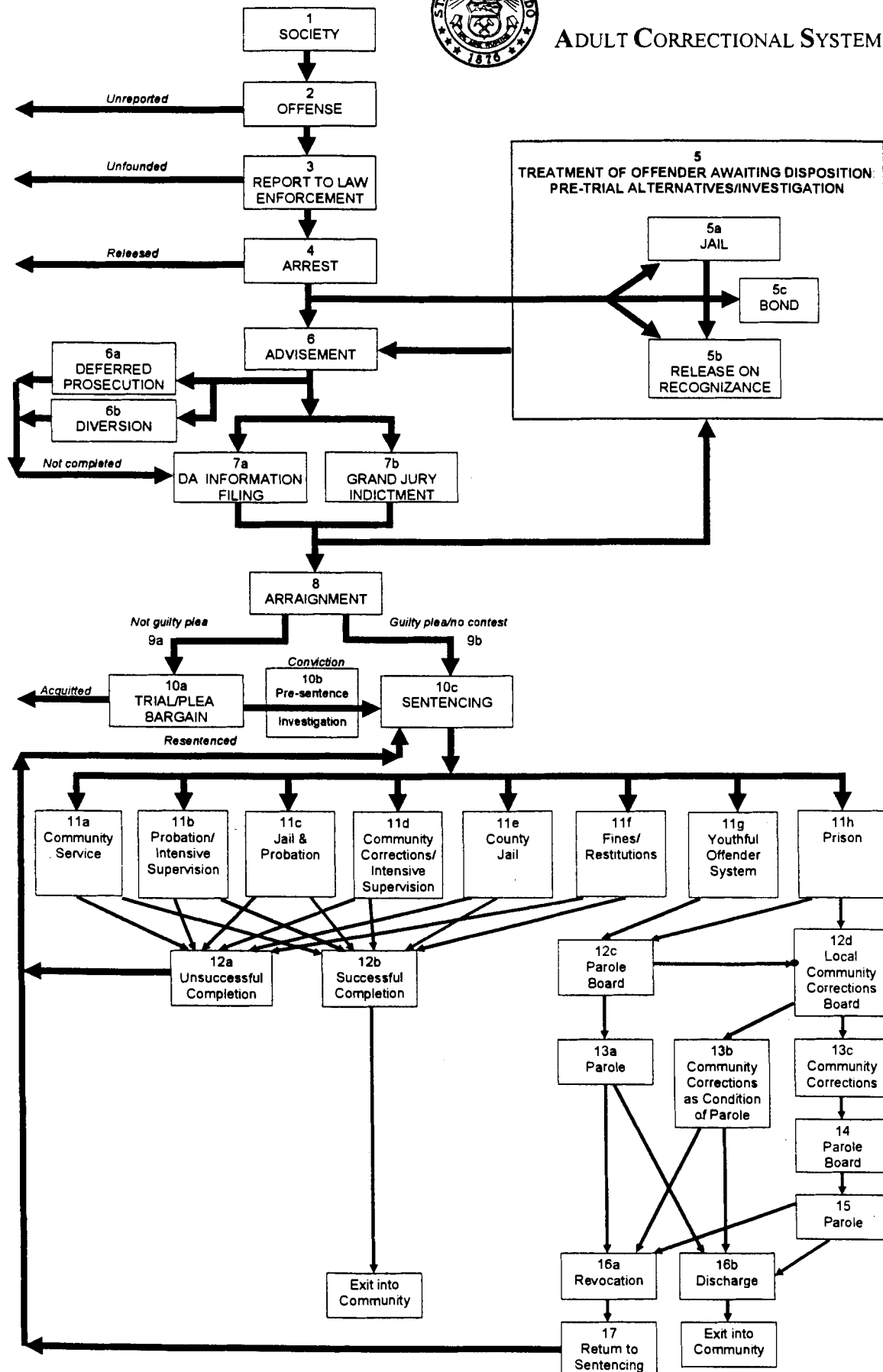


## **Chapter 6 — Flowchart of the Adult Correctional System**

This chapter provides a flowchart of the adult correctional system in Colorado. The chart illustrates the numerous steps required by the court to sentence adult offenders. This chart also depicts the wide discretion within the system that the courts have to apply sentences to criminal offenders. The chart is then followed by a narrative explanation for each step within the flowchart.



STATE OF COLORADO  
ADULT CORRECTIONAL SYSTEM



## Explanation for Adult Correctional System Flowchart

Chart Level	Item	Colorado Statutory Citation	Description
	Society		
2			
3	Offense Committed Report to Law Enforcement		
4	Arrest	16-3-101 and 16-3-102	An arrest may be made anytime and all necessary and reasonable force may be used in making an arrest. A peace officer may arrest a person when: there is a warrant commanding that the person be arrested; any crime has been or is being committed by such person in the peace officer's presence; or the peace officer has probable cause to believe that the offense was committed by the person to be arrested.
	Pre-trial Alternatives/ Pre-trial Investigation	16-4-105 (3)	Pre-trial service programs establish procedures for screening persons detained due to arrest for the alleged commission of a crime. The programs provide information to the judge to assist in making an appropriate bond decision. The programs may also include different methods and levels of community-based supervision as a condition of pretrial release. It is at this stage that the decision is made to release or detain the offender.
5a	Jail	17-26-101	Each county shall maintain a county jail for detention, safekeeping, and confinement of persons and prisoners lawfully committed. Counties with populations of less than 2,000 are not required to operate county jails.
5b	Release on Recognizance	16-4-104	When the amount of bail is fixed by the judge of a court of record, he shall also determine the amount and type of bond (see bond/bail for further explanation) that shall be required to release the defendant prior to trial. The defendant may also be released from custody pursuant to a personal recognizance bond.
5c	Bond/Bail	16-4-101 through 16-4-111	All persons are eligible for bond except for: (a) capital offenses when proof is evident or presumption is great; or (b) when, after a hearing held within 96 hours of arrest, the court finds reasonable proof that a crime was committed and finds that the public would be placed in significant peril if the accused were released on bail and such person is accused in any of the following cases: (I) a crime of violence while on probation or parole resulting from the conviction of a crime of violence; (II) a crime of violence while on bail pending the disposition of a previous crime of violence charge for which probable cause has been found;



## Explanation for Adult Correctional System Flowchart

Chart Level	Item	Colorado Statutory Citation	Description
5c (contd.)	Bond/Bail	16-4-101 through 16-4-111	<p>(III) a crime of violence after two previous felony convictions, or one such previous felony conviction if such conviction was for a crime of violence, upon charges separately brought and tried in this state or any other state, the United States, or any territory subject to the jurisdiction of the United States which, if committed in this state, would be a felony; or</p> <p>(c) when a person has been convicted of a crime of violence at the trial court level and such person is appealing such conviction or awaiting sentencing for such conviction and the court finds that the public would be placed in significant peril if the convicted person were released on bail.</p>
	Advisement		When a determination is made as to a defendant's competency to proceed with a trial or eligibility for release, the court shall explain to the defendant the nature and consequences of the proceeding and the rights of the defendant, including the right to a jury trial upon the question of eligibility for release.
6a	Deferred Prosecution	16-7-401	<p>Prior to trial, the court may enter a plea of guilty and with the consent of the defendant and the prosecution, order prosecution of the offense to be deferred for a period not to exceed two years. The period may be extended up to 180 days if the failure to pay any associated costs is the sole condition of supervision that has not been fulfilled and the defendant has shown a future ability to pay.</p> <p>During the time of deferred prosecution, the court may place the defendant under the supervision of the probation department and may require the defendant to undergo mental health, drug abuse, or alcohol abuse counseling.</p> <p>Successful completion of the supervision requirements will result in the charges being dismissed with prejudice. If the conditions of supervision are violated, the defendant is to be tried for the offense for which he was charged.</p> <p>The statutes stipulate that persons charged with the following crimes are not eligible for a deferred sentence: class 2 felony of sexual assault in the first degree (Section 18-3-402 (3), C.R.S.); and class 2 or class 3 felony of child abuse (Sections 18-6-401 (7) and 18-6-401.2 (4), C.R.S.).</p>

**Explanation for  
Adult Correctional System Flowchart**

<b>Chart Level</b>	<b>Item</b>	<b>Colorado Statutory Citation</b>	<b>Description</b>
6b	Diversion	16-11-213	Often, intensive supervision probation programs are sought as an alternative to sentences to imprisonment or community corrections. Such programs include highly-restricted activities, daily contact between the offender and the probation officer, monitored curfew, home visitation, employment visitation and monitoring, drug and alcohol screening, treatment referrals and monitoring, and restitution and community service.
7a	District Attorney (DA) Information Filing	16-5-205	<p>The DA may file information alleging that a person committed the criminal offense. The court then enters an order fixing the amount of bail, and the amount of bail shall be noted on any warrant issued for the arrest.</p> <p>In addition, upon the return of an indictment by a grand jury, or the filing of information, or the filing of a felony complaint in the county court, the DA shall request the court to order that a warrant be issued for the arrest of the defendant, or that a summons be issued and be served upon the defendant.</p>
7b	Grand Jury Indictment	16-1-104 (11) and 16-5-101	A criminal action may be commenced by a grand jury indictment. An indictment means a written statement, presented by a grand jury to the district court, that charges the commission of a crime by an alleged offender.
8	Arraignment	16-7-201 through 16-7-207	At the time of arraignment the defendant may enter one of the following pleas: a) guilty; b) not guilty; c) nolo contendere (no contest) with the consent of the court; or d) not guilty by reason of insanity, in which event a not guilty plea may also be entered.
9a	Not Guilty Plea >>> Proceed to Trial	16-7-205	See chart level 10a.
9b	Guilty Plea >>> Proceed to Sentencing	16-7-205	See chart level 10c.

## Explanation for Adult Correctional System Flowchart

Chart Level	Item	Colorado Statutory Citation	Description
10a	Trial/Plea Bargain	<p><b>Trial:</b> 16-10-601 through 18-1-405 and 18-1-406</p> <p><b>Plea Bargain:</b> 16-7-301 through 16-7-304</p>	<p><b>Trial:</b> If the defendant is not brought to trial within six months from the date of the not guilty plea, he or she is to be discharged from custody if he/she has not been admitted to bail, and the pending charges are to be dismissed. The defendant may not be indicted again, informed against, or committed for the same offense. If a continuance has been granted for the defense, the period is extended for an additional six months. If the prosecuting attorney is granted a continuance, the trial can be delayed up to six months only if certain circumstances are met which are noted in Section 18-1-405 (6), C.R.S.</p> <p>Every person accused of a felony has the right to be tried by a jury of 12 whose verdict must be unanimous. A person may waive the right to a jury trial except in the case of class 1 felonies. The acceptance by the court of a plea of guilty acts as a waiver by the defendant of the right to trial by jury.</p> <p><b>Plea Bargain:</b> The DA may engage in plea discussions to reach a plea agreement in those instances where it appears that the effective administration of criminal justice will be served. The DA should only engage in plea discussions in the presence of the defense attorney. The prosecutor informs the court of the terms of the plea agreement and the recommended penalty. If the court determines that the proposed plea agreement is acceptable, the court shall advise the defendant that the court exercises independent judgment in deciding whether to grant charge and sentence concessions made in the plea agreement. Therefore, the court may sentence the defendant in a manner that is different than that discussed in the plea discussions. The trial judge does not participate in plea discussions.</p>
10b	Pre-sentence Investigation	16-11-102	Following each felony conviction, with the exception of class 1 felonies, the probation officer makes a written report to the court before sentencing. Pre-sentence reports include a substance abuse assessment or evaluation. The report must also include: family background, educational history, employment record, past criminal record, an evaluation of alternative dispositions available, a victim impact statement, and such other information that the court may require. Copies of the report, including any recommendations, are given to the prosecutor and the defense attorney no less than 72 hours prior to the sentencing hearing.

## Explanation for Adult Correctional System Flowchart

Chart Level	Item	Colorado Statutory Citation	Description
10c	Sentencing	16-11-101, 16-11-103, 16-11.5-104 16-11.7-105 and 17-27-105	Within the penalty limitations provided by the offense classification for which a person is found guilty, the trial court has the following alternatives in entering judgment imposing a sentence: granted probation; sentenced to imprisonment for a definite period of time; sentenced to death; sentenced to the payment of a fine or to a term of imprisonment or to both a term of imprisonment and the payment of a fine; sentenced to comply with any other court order; sentenced to payment of costs; sentenced to substance abuse treatment or sex offender treatment; or sentenced to community corrections programs.
11a	Community Service	16-11-101 and et seq.	Offenders may be sentenced to community service as an alternative to prison if the defendant is eligible for placement in the program. Offenders are not eligible for community service if they have been convicted of a crime of violence (Section 16-11-309, C.R.S.) or any felony offense against a child.
11b	Probation/Intensive Supervision Probation	16-11-101(1)(a), 16-11-201, 16-11-203 and 16-11-213	<p><b>Probation:</b> Persons are eligible for probation with the following exceptions: (1) class 1 felony conviction or class 2 petty offense; (2) any person who has been convicted of two prior felonies in Colorado or any other state; (3) any person convicted of a class 1, 2 or 3 felony within the last ten years in Colorado or any other state. Eligibility restrictions may be waived by the sentencing court upon the recommendation of the DA. In considering whether to grant probation, the court may determine that prison is a more appropriate placement for the following reasons: (1) there is an undue risk that the defendant will commit another crime while on probation; (2) the defendant is in need of correctional treatment; (3) a sentence to probation will unduly depreciate the seriousness of the defendant's crime or undermine respect for law; (4) past criminal record indicates that probation would fail to accomplish its intended purpose; or (5) the crime and the surrounding factors do not justify probation.</p> <p><b>Intensive Supervision Probation:</b> Offenders in the program, at a minimum, receive the highest level of supervision that is provided to regular probationers. Programs are to include highly-restricted activities, daily contact, monitored curfew, home visitation, employment visitation and monitoring, drug and alcohol screening, treatment referrals and monitoring, restitution and community service.</p>

## Explanation for Adult Correctional System Flowchart

Level	Item	Colorado Citation	Description
11c	Jail and Probation	16-11-309	In addition to imposing other conditions, the court has the power to commit the defendant to any jail operated by the county or city and county in which the offense was committed. The commitment to jail may be during the time of probation or interval periods.
11d	Community Corrections/ Intensive Supervision Programs	17-27-101 through 17-27-108 and 17-27.5-101 through 17-27.5-101	<p><b>Community Corrections:</b> Any unit of local government or authorized state agency may establish and operate community corrections programs to serve the needs of offenders assigned by the Department of Corrections (DOC), placed by the State Board of Parole, or sentenced by the court. Community corrections program administrators establish conditions or guidelines for offender conduct accepted in the program. Conditions and guidelines are not to conflict with guidelines established by the local community corrections board.</p> <p>The programs are to: provide residential or nonresidential services; monitor activities; provide oversight of victim restitution and community service; provide services to assist in obtaining and holding regular employment; assist with enrolling and completing academic programs and vocational training; assist in accessing community resources; meet personal and family needs; provide appropriate treatment; and provide other appropriate services or programs.</p> <p>Any district court judge may refer a convicted felony offender to a community corrections program, unless the offender is required to be sentenced under Section 16-11-309, C.R.S., violent offenses. The court may also refer an offender to community corrections as a condition of probation. Offenders sentenced by the court must be approved by the local community corrections boards.</p> <p>The DOC executive director may transfer to a community corrections facility any eligible offender, subject to acceptance by a community corrections board, within 16 months of the parole eligibility date. Eligible offenders are those who: displayed acceptable institutional behavior and are not serving a crime of violence sentence (16-11-309); do not have an active felony warrant; and do not refuse placement. All offenders may be referred within 180 days of the parole eligibility date. The State Board of Parole may refer any parolee for placement, subject to approval by the community corrections board.</p>

**Explanation for  
Adult Correctional System Flowchart**

<b>Chart Level</b>	<b>Item</b>	<b>Colorado Statutory Citation</b>	<b>Description</b>
11d (contd.)	Community Corrections/ Intensive Supervision Programs	17-27-101 through 17-27-108 and 17-27.5-101 through 17-27.5-101	<b>Intensive Supervision Programs (ISP):</b> The DOC may establish and operate intensive supervision programs for any offender having 180 days or less remaining until their parole eligibility date (PED). The DOC may also refer an offender to a locally-operated ISP under contract with the Department of Public Safety (DPS). DPS has the authority to contract with community corrections programs for intensive supervision services. As a condition of parole, the offender may be required to participate in an intensive supervision program.
11e	County Jail	18-1-106	Misdemeanor penalties are punishable by fine or imprisonment. Imprisonments for such offenses are served at the county level and are not served in any state correctional facility.
11f	Fines/Restitution	16-11- 101(1)(b.5)(e)	The defendant may be sentenced to pay a fine or to a term of imprisonment, or both.
11g	Youthful Offender System	16-11-101(1)(h) and 16-11-311	The Youthful Offender System (YOS) was established to provide a sentencing option for certain youthful offenders. The controlled and regimented environment is intended to affirm the dignity of self and others, promote the value of work and self discipline, and develop useful skills and abilities through enriched programming. In order to sentence a person to the YOS, the court must first impose a sentence to the DOC. The court shall thereafter suspend such sentence conditioned on completion of a sentence to the YOS, including a period of community supervision. The sentence imposed to YOS shall be for a determinate period of not less than two years nor more than six years. The DOC may also place the youth under community supervision for a period of not less than six months and up to 12 months any time after the date on which the youth has 12 months remaining to complete the determinate sentence.
11h	Prison	16-11-101(1)(b), 16-11-103, 16-11-302 and 18-1-105	Persons convicted of felony offenses are subject to a penalty of imprisonment for a length of time that is specified in statute corresponding to the felony class for which the offender was convicted.
12a	Unsuccessful Completion	17-22.5-303, 16-11-204, 16-11-502 and 17-27-101, et. seq.	Offenders who fail to meet all of the parole, probation, community corrections, and fine requirements are subject to additional penalties by the courts.
12b	Successful Completion		

## Explanation for Adult Correctional System Flowchart

Chart Level	Item	Colorado Statutory Citation	Description
	Parole Board	17-2-201 through 17-2-210	<p>The Parole Board consists of seven members appointed by the Governor and confirmed by the Senate. The board has the following powers and duties: (1) to meet as often as necessary to consider all applications for parole; (2) to conduct parole revocation hearings pursuant to Section 17-2-103, C.R.S.; and (3) to issue, pursuant to rules and regulations, an order of exigent circumstances (requiring immediate attention) to place an offender under parole supervision when the board is prevented from complying with publication and interview requirements. If the board refuses parole, the board must reconsider parole every year thereafter until parole is granted or the offender is discharged. This does not apply to class 1 or class 2 crimes of violence (Section 16-11-309, C.R.S.) or to class 3 sexual assault. In these instances, the board only has to review parole once every three years.</p> <p>As a condition of every parole, the board must require the offender to make restitution. If restitution is not made, the board may modify the amount, extend the period of parole, or revoke parole. Every offender convicted of class 2 sexual assault in the 1st degree is required to participate in mental health counseling as a condition of parole. Also as a condition of parole, each parolee is to sign a written agreement which contains parole conditions pursuant to Section 17-2-201, C.R.S.; this includes chemical testing. Another offense which requires special parole conditions is sexual assault as defined in Section 18-3-401, et seq., C.R.S.</p>
12d	Local Community Corrections Board	17-27-102	This is the governing body of local community corrections programs.
12e	Parole	17-22.5-403	Offenders sentenced for class 2, 3, 4, 5, or 6 felonies are eligible for parole after serving 50 percent of their sentence, less earned time. Offenders convicted for more serious crimes, as defined by statute, are required to serve 75 percent of their sentence less earned time before being eligible for parole.
13h	Community Corrections as Condition of Parole	17-27-105(3)(a)	The State Board of Parole may refer any parolee for placement in a community corrections program, subject to acceptance by the local community corrections board.

**Explanation for  
Adult Correctional System Flowchart**

<b>Chart Level</b>	<b>Item</b>	<b>Colorado Statutory Citation</b>	<b>Description</b>
13c	Community Corrections	17-27-102 (3)	Community corrections programs are community-based or community-oriented programs that provide supervision of offenders. These programs are operated by a unit of local government, the DOC, or any private individual, partnership, corporation, or association. The programs may provide residential or non-residential services for offenders, monitoring of the activities of offenders, and services to aid offenders in obtaining and holding regular employment, programs and services to aid offenders in enrolling in and maintaining academic courses, programs and services to aid offenders in participating in vocational training programs, programs and services to aid offenders in utilizing the resources of the community, meeting the personal and family needs of such offenders, programs and services to aid offenders in obtaining appropriate treatment for such offenders, programs and services to aid offenders in participating in whatever specialized programs exist within the community, and such other services and programs as may be appropriate to aid in offender rehabilitation and public safety.
14	Parole Board		See chart level 12c
15	Parole		See chart level 13a.
16a	Revocation	17-2-103, 17-27-105 and 17-27.9-101	A parolee who violates the conditions of parole, may have that privilege revoked. These conditions include any parolee who is found in possession of a deadly weapon, arrested and charged with a felony, a crime of violence, a misdemeanor assault involving a deadly weapon or resulting in bodily injury to the victim, or sexual assault in the third degree.
16b	Successful Discharge		The offender successfully completes the conditions of parole or community corrections and is free to reintegrate into society.
17	Return to Sentencing		See chart level 12a.



## **Chapter 7 — Crime in Colorado**

Crime in society is the ultimate reason for the existence of criminal justice and correctional systems. This chapter provides a brief discussion of trends in the amount and type of crime in society. Because crime victimization surveys show that crimes are often not reported, the amount of crime taking place is difficult to evaluate accurately. While official statistics on index crimes — seven common violent or property crimes — indicate a decreasing crime rate, other indicators of crime, such as felony filings (the number of people who are charged with felony crimes) show an increase. For example, between 1993 and 1994, the number of reported index crimes in Colorado declined 4.4 percent (from 183,556 to 175,402). Meanwhile, the number of adult felony filings in Colorado rose 14.4 percent (from 24,636 to 28,172) between FY 1993-94 and FY 1994-95. This chapter analyzes several different ways in which crime is measured and examines the paradox of often contradictory trends in reported crime, arrests, felony filings, and prison commitments.

## REPORTED INDEX CRIMES

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The traditional way of measuring crime rates is by the number of crimes reported to the police. The Colorado Bureau of Investigation (CBI) compiles an index of seven commonly reported crimes designed to represent the majority of serious violent and property crimes in Colorado — homicide, forcible rape, robbery, assault, burglary, theft, and auto theft. For reporting purposes, CBI defines these seven crimes as follows:

<b>Criminal Homicide</b>	The willful killing of one human being by another.
<b>Forcible Rape</b>	The carnal knowledge of a person, forcibly and/or against that person's will; or not forcibly or against the person's will, but where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth).
<b>Robbery</b>	The taking or attempt to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or putting the victim in fear.
<b>Assault</b>	The unlawful attack by one person upon another.
<b>Burglary</b>	The unlawful entry into a structure to commit a felony or theft.
<b>Theft</b>	The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another.
<b>Motor Vehicle Theft</b>	The theft or attempted theft of a motor vehicle.

Table 7.1 presents the crime rate per 100,000 Colorado residents for these index crimes from 1976 through 1994. As Colorado's population increases, the absolute number of crimes taking place in the state would also be expected to increase. The reported index crime rate per 100,000 residents (which we have used) is a more meaningful measure of the prevalence of crime than the actual number of reported crimes. The index crime per 100,000 residents measures the amount of crime relative to Colorado's growing population. Data on these index crimes suggest that most types of crime are decreasing.

**Violent crimes.** The reported violent crime rate (homicide, rape, assault and robbery) peaked at 587.2 per 100,000 Colorado residents in 1980, dropped under 500 for most of the 1980s, and then peaked again at 561.4 per 100,000, in 1992. Between 1992 and 1994, the rate of reported violent index crimes dropped 11.2 percent, to

479.3 per 100,000 residents. The individual crimes that make up the violent crime index show similar long-term trends with a notable high rate of assault between 1989 and 1993.

**Property crimes.** The reported property crime rate (burglary, theft, and motor vehicle theft) also peaked in 1980, at 7,186.3 per 100,000 Colorado residents, and has since steadily declined to 4,318.4 per 100,000 people in 1994, a decrease of 40 percent over the 14-year period. However, this decline has not been uniform for the three property crimes included in the index. While all three reached their lowest level in 1994, reported auto theft peaked in 1992, while burglary and theft were at their highest reported levels in 1980. The drop in the burglary rate has been most dramatic, with the 1994 rate of 838.8 reported burglaries per 100,000 residents, which is less than half the rate reported in each year from 1976 through 1982.

**Table 7.1: Colorado Index Crime Rates per 100,000 People**

Year	VIOLENT CRIMES					PROPERTY CRIMES				Total Index Crimes
	Total Violent	Homicide	Forcible Rape	Robbery	Assault	Total Property	Burglary	Theft	Auto Theft	
1976	389.0	8.6	31.2	134.6	214.6	5,934.7	1,736.9	3,782.3	415.5	6,323.7
1977	452.4	7.7	39.3	161.8	243.6	6,148.8	1,839.6	3,832.4	476.8	6,601.2
1978	477.5	7.0	47.5	153.4	269.5	6,068.6	1,797.5	3,801.7	469.4	6,546.1
1979	504.2	5.8	51.3	152.5	294.7	6,314.8	1,737.2	4,113.1	464.6	6,819.0
1980	587.2	6.8	53.7	160.2	366.5	7,186.3	2,109.1	4,601.1	476.1	7,773.5
1981	521.3	8.0	44.6	157.2	311.5	6,702.7	1,996.7	4,299.8	406.1	7,224.0
1982	494.5	5.8	44.3	148.8	295.6	6,422.2	1,713.5	4,319.2	389.5	6,916.7
1983	472.0	6.4	41.7	125.9	298.1	6,095.9	1,519.9	4,206.2	369.9	6,567.9
1984	454.2	5.6	39.1	112.1	296.4	5,901.9	1,543.0	3,967.2	391.7	6,356.0
1985	471.5	5.9	41.0	124.6	300.0	6,437.3	1,752.1	4,251.1	434.2	6,908.8
1986	526.9	7.1	42.6	145.8	331.4	6,525.3	1,802.1	4,234.8	488.5	7,052.1
1987	471.9	5.9	41.2	119.9	305.0	6,017.6	1,548.7	4,059.6	439.9	6,489.5
1988	474.7	5.7	38.8	99.3	330.9	5,708.6	1,389.1	3,895.8	423.7	6,183.4
1989	475.6	4.4	36.6	90.8	343.8	5,594.8	1,259.1	3,879.1	456.6	6,070.5
1990	523.9	4.2	45.9	90.3	383.6	5,479.9	1,199.3	3,854.0	426.6	6,003.8
1991	559.8	5.8	47.2	107.7	399.0	5,511.2	1,158.5	3,925.9	426.7	6,071.0
1992	561.4	6.2	46.5	119.3	389.4	5,130.2	1,048.5	3,582.8	498.9	5,691.6
1993	540.0	5.4	43.1	113.4	378.0	4,611.7	946.5	3,228.6	436.7	5,151.7
1994	479.3	5.3	39.8	120.4	313.8	4,318.4	838.8	3,137.7	341.8	4,797.6

Source: Colorado Bureau of Investigation, "Crime in Colorado" Annual Reports, 1976-1994.

## REPORTED INDEX CRIMES VERSUS TOTAL CRIME

There are several reasons the index crime rates reported herein may not necessarily be an accurate representation of the amount of crime taking place. First, the actual number of crimes committed is unknown but is higher than the numbers reflected in Table 7.1 since many crimes are not reported. The U.S. Bureau of Justice Statistics annually conducts a "National Crime Victimization Survey" in an attempt to more accurately determine the prevalence of crime in society. The telephone survey asks respondents if they were the victim of a crime within the last 12 months and whether they reported the crime to the police. Table 7.2 displays the percentage of actual crime that was reported to police in 1992, as determined by the national crime victimization survey by crime type. It shows that, on average, only 39 percent of total U.S. crime victimizations (for the crimes included in the CBI crime index) were reported to the police. Murder is not included in the survey results as murder victims are no longer present to discuss their victimization status.

Reporting rates of crimes vary significantly by crime type, with 75 percent of motor vehicle thefts and 62 percent of aggravated assaults reported, but only 30 percent of thefts are reported. The high reporting rate for motor vehicle theft is likely to be due to the value of motor vehicles. In addition, unlike other property that may be stolen, most motor vehicles are insured, and it is necessary for the victim to report the stolen car to file an insurance claim. Aggravated assaults are usually reported since they typically involve serious injuries, often gunshot wounds, resulting in emergency room visits or hospitalization.

**Table 7.2: Percent of Crimes Reported to Police**

<b>Crime</b>	<b>Percent Reported</b>
Rape	53%
Robbery	51%
All Assault	49%
Aggravated	62%
Simple	43%
Burglary	54%
Motor Vehicle Theft	75%
All Theft	30%
With Contact	31%
Without Contact	30%
<b>Total Crimes Reported to Police</b>	<b>39%</b>

Reporting rates of crime in Colorado may differ significantly from the nationwide average. We do not have estimates of the percentage reported for Colorado. Assuming Colorado reporting rates approximate the national rates, however, the total amount of crime taking place is far higher than the CBI index crime data indicate. Using the national figure that 39 percent of all crimes are reported to police, the index crimes reported in Colorado in 1994 reflect approximately 450,000 total index crimes taking place in the state.

***Changes in reporting rates of crimes over time.*** In using crime data, one must also consider the effects of changes in the percentage of crimes reported over time. The CBI data on index crime rates detailed previously suggest that there has been a general downward trend in crime, a notion that conflicts with popular perceptions of escalating crime rates. This trend, however, may be clouded by a decrease in the proportion of crime victimizations reported to the police, instead of an actual reduction in crime. The following hypothetical example demonstrates how this may take place.

In 1993, a town with 1,000 people has one criminal. The criminal commits 50 assorted property crimes and is arrested, filed upon, and convicted of at least one of those crimes. All 50 crimes are reported to the police. The reported crime rate for the town would be 5,000 crimes per 100,000 people, a rate similar to the overall reported property crime rate for Colorado. In 1994, the same town still has 1,000 people and has one criminal who also commits 50 assorted property crimes, is arrested, filed upon, and convicted of at least one of those crimes. In 1994, however, only 25 of the 50 crimes committed were reported to the police. The reported crime rate for the town in 1994 would be 2,500 crimes per 100,000 people. Thus, officially, the crime rate in the town (based on crimes reported to the police) dropped by 50 percent between 1993 and 1994, but in reality the town had the same crime rate in both years. Since the criminal was arrested, filed upon and convicted in both cases, the arrest, filing, and conviction rates per 100,000 residents would have remained constant at 100 per 100,000.

A decrease in the reporting rate of crime is one possible explanation for the discrepancy between statistics showing falling crime rates, but rising rates of felony filings, felony convictions, and prison admissions. It cannot be determined with certainty to what degree crime victimizations are less likely to be reported to police now than in the past. However, simultaneous decreases in rates of reported crime and increases in rates of felony filings for those crimes suggest that the percentage of crimes reported to police is falling. This may account for the apparent contradiction between official statistics that show a drop in crime and the public's perception of increased crime.

***Crimes not included in CBI's index of reported crimes.*** An additional way in which the reported index crime rate may not accurately report total crime is that it excludes some classes of crime, most notably those that involve the drug trade. Most drug-related crimes qualify as "victimless crimes," and thus are not included in CBI's index. This does not suggest that drug crimes pose no harm to society, but, rather, that they rarely involve a direct victimization of one person by another. Nevertheless, many

drug offenders are arrested, prosecuted, and convicted of crimes. Over the last decade, drug offenders have been the most rapidly growing class of criminals passing through Colorado's criminal justice system. For example, in FY 1984-85, there were 104 new commitments to the Department of Corrections (DOC) for drug-related offenses. In FY 1994-95, that number rose to 663 new drug-offense commitments, an increase of 662 percent in ten years. Today, drug-related felons comprise 12.5 percent of Colorado's prison population. Thus, the index excludes a large and growing component of total crime that significantly impacts court caseloads and the size of correctional populations.

## **ALTERNATIVE MEASURES OF CRIME**

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Because reported index crime rates may not accurately reflect the true amount of crime, trends in other crime-related indices such as arrests and felony filings may give a more accurate representation of the amount of crime taking place. Nevertheless, these indicators still cannot remedy the problem that not all crimes are reported and that the percentage thereof may vary.

### **Arrests**

Table 7.3 presents adult and juvenile arrests in Colorado as rates per 100,000 residents from 1976 through 1994. The combined total juvenile and adult arrest rate peaked in 1991 at 7,650.1 per 100,000 Colorado residents after a prolonged rise from 4,436 per 100,000 in 1976. Between 1991 and 1994, however, the combined arrest rate dropped 14.2 percent, to 6,562 arrests per 100,000 residents. These figures encompass all arrests, including arrests for misdemeanor and non-index felony crimes, as well as the index felony crimes listed toward the right side of the table.

The adult arrest rate peaked at 6,106 per 100,000 residents in 1985. After remaining fairly constant through 1991, the adult arrest rate declined 16.7 percent between 1991 and 1994, to 5,025 arrests per 100,000 residents. The juvenile arrest rate declined steadily between 1976 and 1983, from 1,539 arrests per 100,000 residents in 1976, to 1,206 in 1983. The juvenile arrest rate gradually rose again to 1,621 per 100,000 residents in 1991. It declined somewhat, to 1,537 per 100,000 by 1994. These juvenile arrest rates are per 100,000 total state residents, rather than per 100,000 juveniles. Thus, the fluctuations in juvenile arrest rates may be influenced by the size of the state's juvenile population.

Table 7.3: Colorado Arrest Rates per 100,000 People

CRIME-SPECIFIC ARREST RATES										
Year	Adult Arrests	Juvenile Arrests	Total Arrests	Homicide	Forcible Rape	Robbery	Aggravated Assault	Burglary	Theft	Auto Theft
1976	2,897.0	1,538.8	4,435.8	6.3	12.1	45.7	90.3	249.3	869.7	75.2
1977	3,122.0	1,432.4	4,554.4	5.8	11.7	42.0	100.2	240.2	870.0	84.0
1978	3,492.4	1,423.7	4,916.1	6.0	13.5	42.7	112.1	238.4	908.7	95.2
1979	3,868.6	1,383.4	5,252.0	6.2	14.3	42.0	122.7	239.2	951.1	98.8
1980	4,387.3	1,304.7	5,692.1	4.7	15.3	43.1	126.1	232.1	954.7	76.6
1981	4,704.2	1,250.6	5,954.8	6.6	12.4	39.2	133.3	233.4	896.5	71.1
1982	5,001.0	1,021.5	6,022.5	5.0	11.1	33.0	120.0	210.0	821.7	55.5
1983	5,275.2	1,206.2	6,481.4	5.1	13.1	34.5	128.4	195.4	968.3	61.0
1984	5,640.4	1,283.8	6,924.3	6.0	13.8	30.5	131.9	162.6	989.3	69.1
1985	6,105.7	1,384.5	7,490.2	5.1	13.5	32.0	135.0	185.5	1,018.3	72.1
1986	6,038.8	1,413.3	7,452.1	6.0	13.3	33.0	140.7	174.7	986.3	78.4
1987	6,067.9	1,408.4	7,476.3	5.1	13.6	30.9	134.8	162.3	979.7	74.7
1988	5,843.6	1,365.9	7,209.5	4.9	16.0	27.1	158.2	149.9	971.8	78.0
1989	5,901.2	1,473.5	7,374.6	5.0	15.7	27.8	195.3	148.8	930.5	91.5
1990	6,034.5	1,570.3	7,604.9	4.6	18.9	26.6	224.7	138.5	967.5	77.5
1991	6,028.6	1,621.4	7,650.1	5.8	17.6	30.2	220.5	135.1	980.4	74.0
1992	5,734.5	1,548.1	7,282.6	6.1	15.8	30.6	203.4	120.1	931.2	66.7
1993	5,598.3	1,544.0	7,142.3	6.1	15.6	28.8	202.2	114.1	866.1	72.0

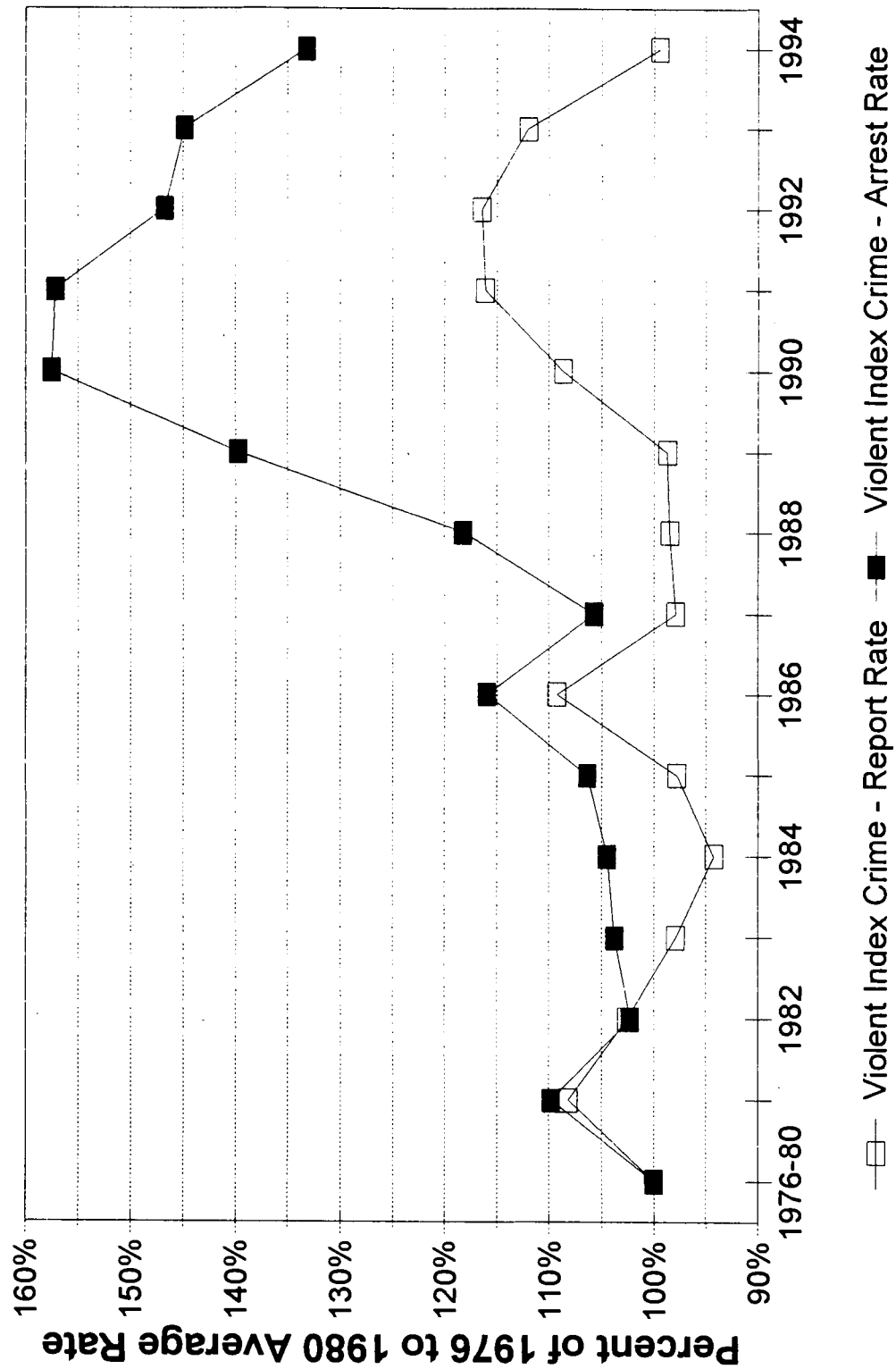
Source: Colorado Bureau of Investigation, "Crime in Colorado" Annual Reports, 1976-1994.

Graph 7.1 presents a comparison of trends in the reported crime and arrest rates for the four violent crimes included in the CBI index. Graph 7.2 presents the reported crime and arrest rates for the three property crimes included in the CBI index. The average rates for the five-year period of 1976 to 1980 are used as a basis for comparison. In the graphs, the 1976 to 1980 average rate is set at 100 percent, and rates for four variables — report and arrest rates for violent crimes and report and arrest rates for property crimes — in subsequent years are shown as a percent of the 1976-80 average rate.

The graphs illustrate that beginning around 1986, arrest rates and reported crime rates began to diverge significantly for both violent and property crimes. While arrest rates for the three index property crimes have been declining since 1986, they have not been declining as rapidly as the reported rates of those crimes. Similarly, the arrest rate for the four index violent crimes rose much more rapidly in the late 1980s than the reported rates of those crimes.

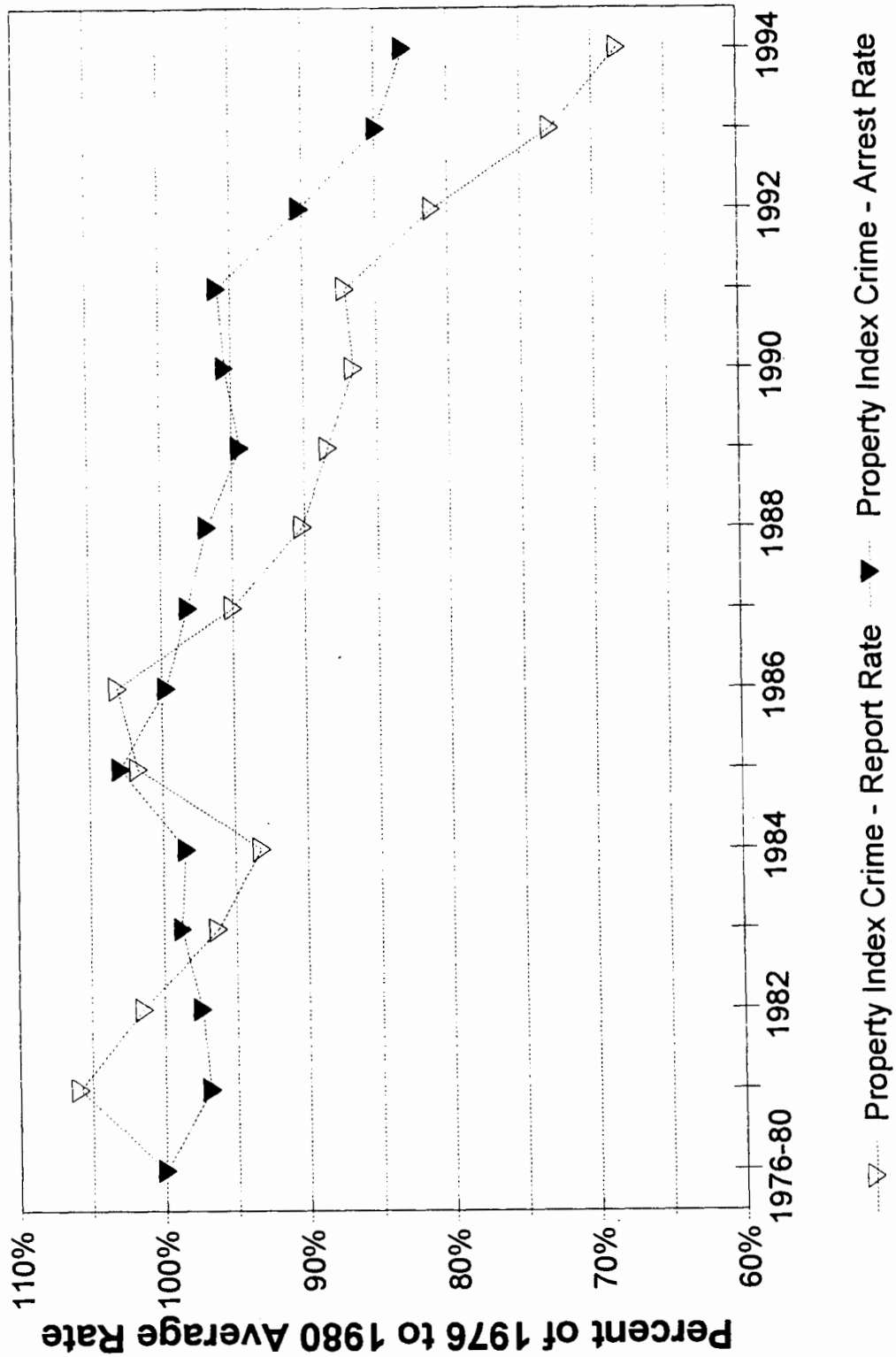
There are many things that may have caused an increase in the number of arrests relative to the number of reported crimes. The divergence may indicate better enforcement: that law enforcement officials are apprehending a somewhat higher percentage of people who have committed crimes. Another plausible explanation is that the percentage of crime victimizations reported to police has been declining.

**Graph 7.1: Trends in Violent Crime: Report and Arrest Rates**





**Graph 7.2: Trends in Property  
Crime: Report and Arrest Rates**



## Felony Filings

Since felony filings represent the number of people filed upon in courts for felony crimes, they are an additional indicator of the amount of serious crime in society. Table 7.4 presents the total number of adult felony and juvenile delinquency filings in Colorado for the 20-year period between FY 1975-76 and FY 1994-95. The annual number of adult felony filings increased 142.0 percent and the number of juvenile filings increased 156.8 percent over the 20-year period. This compares with a 5.9 percent increase in the number of reported index crimes during the same period. Between FY 1993-94 and FY 1994-95 alone, adult felony filings increased 14.4 percent and juvenile delinquency filings increased 21.3 percent, the most rapid one-year growth during the 20-year period addressed.

**Table 7.4: History of Adult Felony and Juvenile Delinquency Filings in Colorado**

<b>Fiscal Year</b>	<b>Adult Felony Filings</b>	<b>Percent Change</b>	<b>Juvenile Delinquency Filings</b>	<b>Percent Change</b>
1975-76	11,641	NA	5,909	NA
1976-77	11,661	0.2%	6,204	5.0%
1977-78	11,404	-2.2%	6,271	1.1%
1978-79	11,614	1.8%	6,304	0.5%
1979-80	13,410	15.5%	6,543	3.8%
1980-81	15,002	11.9%	6,901	5.5%
1981-82	15,348	2.3%	6,562	-4.9%
1982-83	16,769	9.3%	6,791	3.5%
1983-84	15,785	-5.9%	5,971	-12.1%
1984-85	16,851	6.8%	6,537	9.5%
1985-86	16,963	0.7%	8,115	24.1%
1986-87	17,478	3.0%	7,944	-2.1%
1987-88	18,431	5.5%	8,340	5.0%
1988-89	20,304	10.2%	9,438	13.2%
1989-90	21,054	3.7%	10,816	14.6%
1990-91	21,530	2.3%	10,710	-1.0%
1991-92	23,571	9.5%	12,721	18.8%
1992-93	23,487	-0.4%	11,980	-5.8%
1993-94	24,636	4.9%	12,510	4.4%
1994-95	28,172	14.4%	15,175	21.3%

NA: Not available.

Source: Colorado Judicial Department.

## Comparing Trends in Different Measures of Crime

Different measures for documenting crime in Colorado indicate conflicting trends in crime rates as indicated by Table 7.5 and Graph 7.3. Table 7.5 presents the rates per 100,000 residents of alternative criminal justice system indicators of crime — the reported index crime rate, adult and juvenile arrest rates, the adult felony and juvenile delinquency filing rates, and the new prison commitment rate. In order to provide a basis for comparison in Graph 7.5, the 1976 to 1980 average rate is set at 100 percent, and rates for four variables — reported index crimes, total adult arrests, adult felony filings, and new prison commitments — in subsequent years are shown as a percent of the 1976 to 1980 average rate.

**Table 7.5: Selected Proxies for Crime in Colorado:  
Historical Rates per 100,000 Colorado Residents**

Year	Index Crime Rate*	Adult Arrest Rate	Juvenile Arrest Rate	Felony Filing Rate	Delinquency Filing Rate	Prison Admission Rate
1976-80**	6,812.7	3,553.5	1,428.6	443.9	229.7	57.2
1981	7,224.0	4,704.2	1,250.6	509.2	225.9	56.1
1982	6,916.7	5,081.8	1,221.5	523.9	217.8	56.2
1983	6,567.9	5,275.2	1,206.2	518.7	203.3	57.4
1984	6,356.0	5,640.4	1,283.8	514.0	197.0	55.9
1985	6,908.8	6,105.7	1,384.5	526.0	227.9	60.8
1986	7,052.1	6,038.8	1,413.3	531.0	247.6	68.1
1987	6,489.5	6,067.9	1,408.4	550.2	249.5	72.8
1988	6,183.4	5,843.6	1,365.9	592.1	271.8	85.9
1989	6,070.5	5,901.2	1,473.5	629.5	308.3	86.2
1990	6,003.8	6,034.5	1,570.3	644.4	325.8	86.1
1991	6,071.0	6,028.6	1,621.4	669.4	347.7	87.3
1992	5,691.6	5,734.5	1,548.1	679.6	356.7	100.1
1993	5,151.7	5,598.3	1,544.0	675.3	343.7	94.0
1994	4,797.6	5,025.1	1,537.2	722.2	378.6	96.9

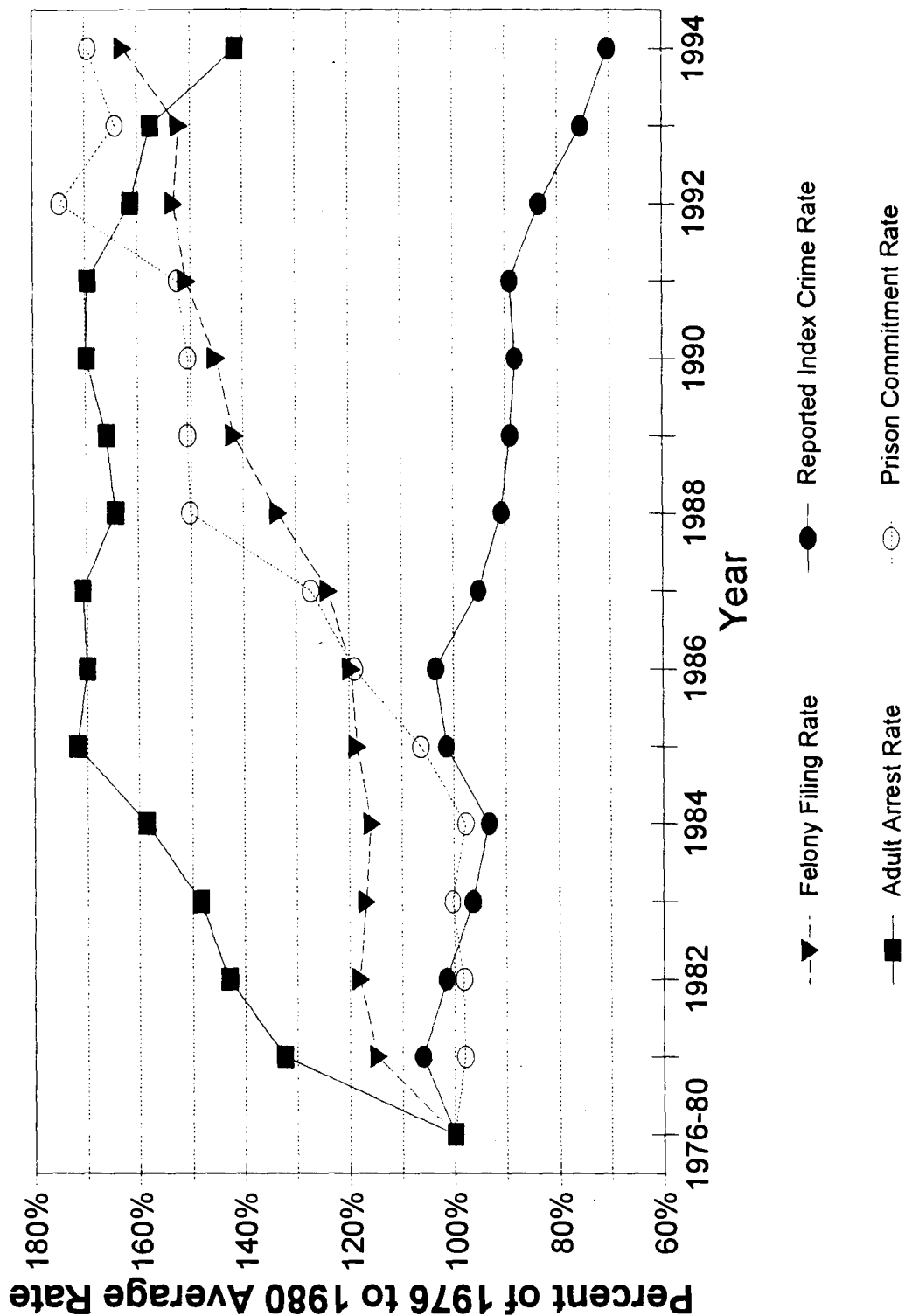
\* Index crimes are defined as homicide, rape, assault, robbery, burglary, theft, and motor vehicle theft.

\*\* Annual averages.

Sources: Colorado Bureau of Investigation, "Crime in Colorado" Annual Report, Colorado Judicial Department, and Colorado Department of Corrections.

Graph 7.3 demonstrates the apparent crime rate contradiction. While the reported index crime rate in 1994 was 30 percent below the 1976-80 average, the adult arrest rate was 40 percent higher in 1994 than in the 1976 to 1980 time period. Even more dramatic, the felony filing rate was approximately 60 percent higher and the prison commitment rate was approximately 70 percent higher in 1994 than the 1976 to 1980 average. Paradoxically, the reported index crime rate has fallen most since 1986, the same period when felony filing rates and prison commitment rates were increasing most rapidly. Meanwhile, the adult felony filing rate per 100,000 residents continues to rise even though adult arrest rates have been falling for four years, indicating that a greater proportion of those who are arrested are being filed upon.

**Graph 7.3: Changes in Crime Rates  
Using Various Measures of Crime**



## **Summary**

Much of the evidence on crime in society is conflicting. While reported crime rates are officially declining, other indicators such as felony filing rates continue to rise. This calls into question whether index crime rates are accurate measures of the prevalence of crime in society. The combination of: a rapid rise in the number of felony drug offenses, which are not included in the CBI index crime rate; the likelihood that the percentage of crime victimizations reported to the police has declined; and the potential that the proportion of offenders apprehended by law enforcement officials has increased — account for the apparent contradiction. Since there is no way of knowing accurately how much crime goes unreported, we are unable to determine how much of a role each of these factors may be playing. Thus, the official crime index data should be used with caution and other factors should be considered.

## **Chapter 8 — Sentencing Placement of Convicted Felons**

This chapter analyzes the placement of convicted felons based upon:

- the crime charge and felony class of the most serious crime the felons were convicted of committing;
- how the likelihood of a prison sentence is affected by an offender's prior criminal history; and
- how the percentage of convicted felons committed to prison has changed during the last seven years in Colorado.

Between FY 1988-89 and FY 1994-95, the number of felony filings in eight Front Range judicial districts rose 39.1 percent, from 17,016 to 23,669. During the same period, the number of felony convictions in these eight districts rose 86.9 percent, from 6,189 to 11,569. (Only eight districts were used because of the availability of consistent data during the time period. These eight districts represent 84 percent of the state's felony filings.)

Among offenders sentenced for felony offenses in 1994, 30.4 percent received prison sentences, 7.2 percent received community corrections sentences, 60.7 percent received probation sentences, and 1.7 percent received other placements. Since there was not a need for data consistency with regard to convictions over time, this analysis includes all but four judicial districts and represents an estimated 90 percent of the state's felony filings. The likelihood of an offender receiving a prison sentence rises with the seriousness of the crime and the felony class of the crime. The likelihood of a prison sentence is also influenced by an offender's prior criminal history, including the number of prior adult felony convictions and the highest prior level of correctional supervision. For example, someone convicted of a class 6 felony who has been in prison before or/and has two or more prior felony convictions is far more likely to be sent to prison for the class 6 felony than a first-time offender convicted of a class 3 felony.

Between 1989 and 1995, the percentage of convicted felons sentenced to prison declined significantly for class 3, 4, 5 and 6 felony classes. In the eight Front Range judicial districts studied, the overall percentage of convicted felons receiving prison placements declined from 41.0 percent in the six months through April 1989 to 25.3 percent in the six months through June 1995. The reasons behind this drop include the expansion of high supervision alternatives to prison sentencing, such as community corrections and Intensive Supervision Probation, and the growth of drug-related crimes as a proportion of total felony convictions. Drug crimes have lower rates of prison incarceration than violent or property crimes.



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## THE DATA USED

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The information presented in this chapter is based on data on Colorado felony cases obtained from the Colorado District Attorneys' Council. Where we look at trends over time, we used data from eight Front Range judicial districts, those districts for which data were available since the late 1980s. These Front Range districts accounted for 84 percent of Colorado's felony filings and 82 percent of the state's prison commitments in FY 1994-95; thus, statewide trends will generally be reflected in these districts. Where we look at a one-year period (1994), we have used all information available. This includes data from all judicial districts except 3, 13, 20, and 21 (Las Animas, Huerfano, Logan, Morgan, Phillips, Sedgwick, Washington, Yuma, Boulder, and Mesa counties).

Throughout this chapter, we limited the analysis to actual felony convictions in order to exclude the large number of offenders receiving deferred judgements, deferred sentences, or deferred prosecutions. (Deferred judgements, deferred sentences, and deferred prosecutions are neither convictions, dismissed or acquitted cases.) Most such judgements result in a period of probation and are then stricken from the offender's record upon successful completion of his or her probation period. Therefore, when these deferrals are considered, the risk of prison and community corrections incarceration decreases significantly for most crimes, especially for first-time and non-violent offenders. The impacts are discussed in more detail in the chapter on plea bargaining (Chapter 14).

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## FELONY FILINGS AND CONVICTIONS

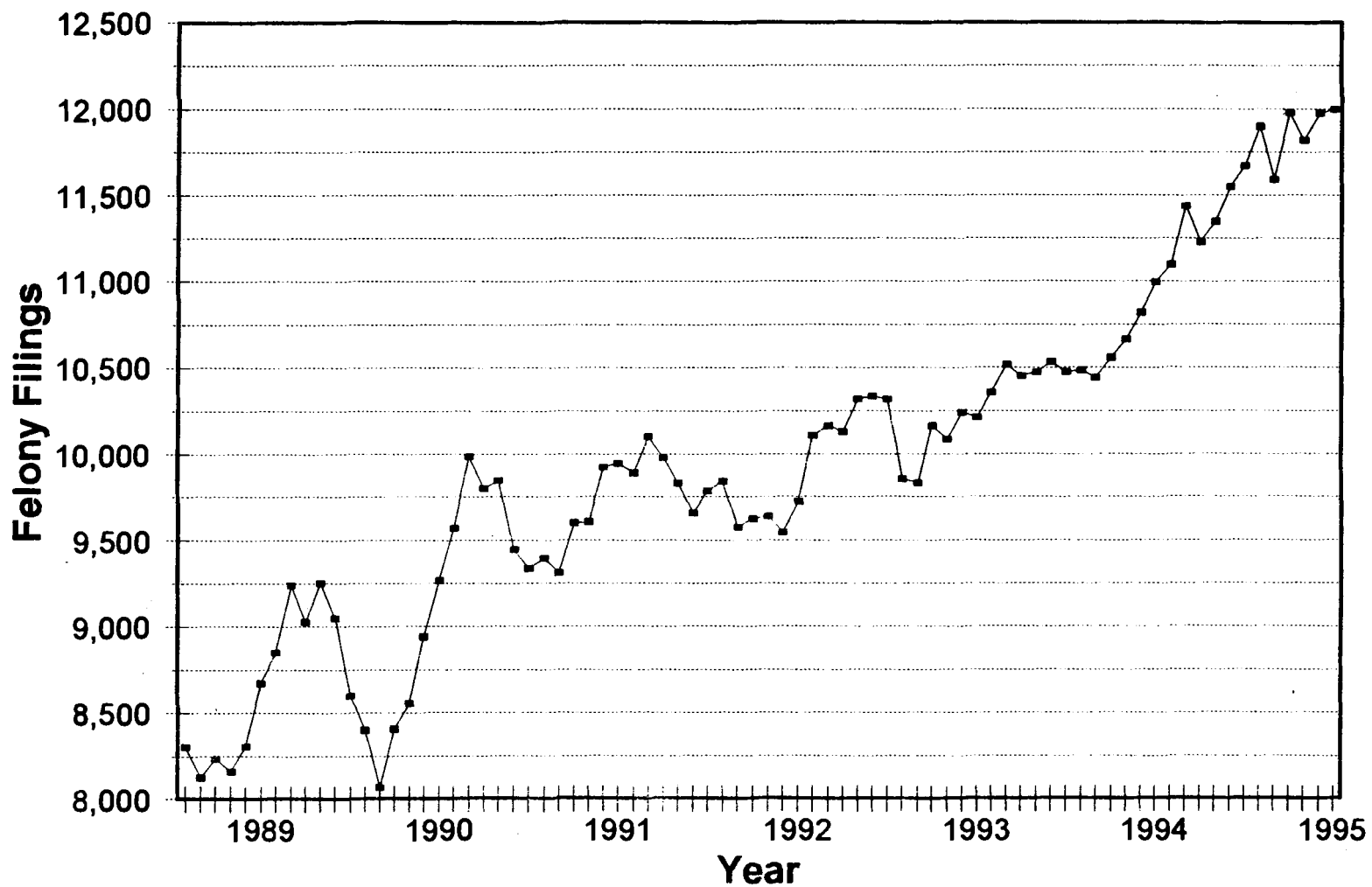
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Correctional populations are largely driven by the number of felony filings and convictions in the state. Graphs 8.1 and 8.2 show the total number of felony filings and felony convictions in eight Front Range judicial districts between 1989 and 1995. The numbers of filings and convictions are presented as six-month moving totals to better demonstrate trends. The number of felony *filings* in these eight districts grew 39.1 percent, from 17,016 in FY 1988-89 to 23,669 in FY 1994-95. The number of felony *convictions* in the eight judicial districts rose 86.9 percent between FY 1988-89 and FY 1994-95, from 6,189 to 11,569.

The reason that felony convictions rose more rapidly than filings is uncertain, but is likely to be related to the plea bargaining process, since most felony cases are decided through plea bargains. The conviction numbers only include actual convictions and not the deferred judgements, deferred sentences, and deferred prosecutions that frequently result from plea bargaining. Thus, the higher growth rate of convictions is likely to be the result of fewer cases receiving deferred judgements. The rise in felony convictions relative to filings may also be due to somewhat fewer cases being pled down from class 5 felonies to misdemeanors because of the creation of the class 6 felony in 1989. Guilty plea convictions are often one felony class lower than the crime that was originally charged. Prior to the creation of the class 6 felony in 1989, this resulted in many people originally charged with class 5 felonies being convicted of misdemeanor crimes. Since the creation of the class 6 felony, many of these pleas from class 5 charges are now felony class 6 convictions. Thus, more crimes charged as felonies are being convicted as felonies and fewer as misdemeanors.

# **Graph 8.1: Felony Filings in 8 Front Range Judicial Districts**

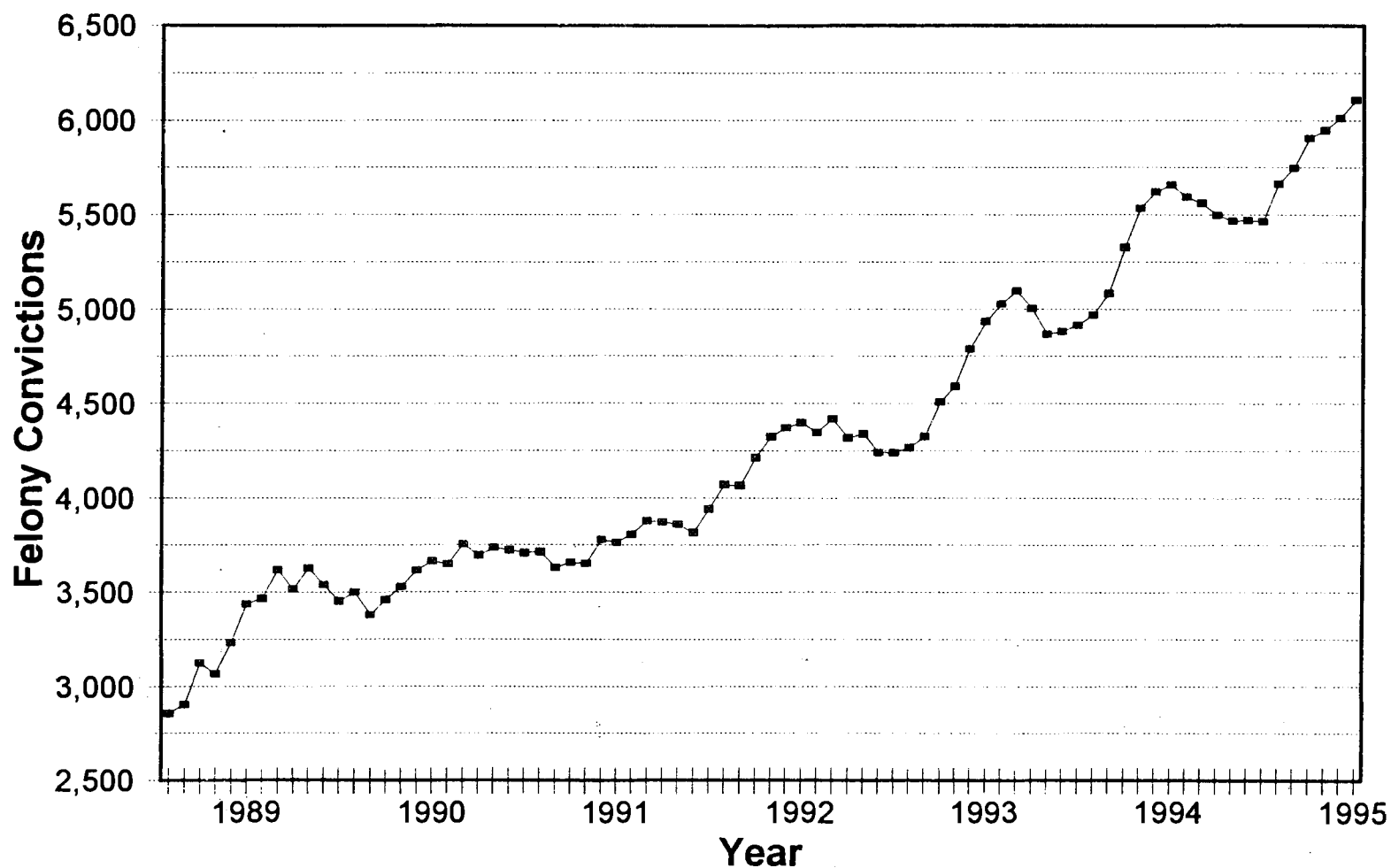
***6-Month Moving Total***





## Graph 8.2: Felony Convictions in 8 Front Range Judicial Districts

*6-Month Moving Total*



## PLACEMENT OF CONVICTED FELONS BY FELONY CLASS AND CRIMINAL HISTORY

Table 8.1 displays the number of convictions by felony class in Colorado in 1994 and the percent of those convictions receiving prison, community corrections, probation and other placements. The table yields several conclusions:

- The vast majority of felony convictions are for crimes in less serious felony classes. For example, felony class 1 and 2 convictions together comprised only one percent of total convictions in 1994, while 31.3 percent of convictions were for felony class 4 crimes and 40.5 percent were for class 5 felonies.
- Approximately twice as many convicted felons received probation placements (60.7 percent) as prison placements (30.4 percent).
- The proportion of felony convictions that received prison placements declined from 100 percent for class 1 and 93 percent for class 2 felonies to 28 percent for class 5 and 26 percent for class 6 felonies.
- The proportion of convicted felons that received probation sentences rose from 2.3 percent for class 2 felonies to 64.6 percent for class 5 and 63.8 percent for class 6 felonies.

**Table 8.1: Placement of Convicted Felons by Felony Class, 1994**

Felony Class	Number of Convictions	Percent of all Felony Convictions	Department of Corrections	Community Corrections	Probation	Other*
Class 1	29	0.3%	100.0%	0.0%	0.0%	0.0%
Class 2	86	0.8%	93.0%	4.7%	2.3%	0.0%
Class 3	1,587	14.1%	39.3%	8.1%	51.0%	1.6%
Class 4	3,523	31.3%	29.7%	7.4%	60.7%	2.2%
Class 5	4,565	40.5%	27.6%	6.5%	64.6%	1.4%
Class 6	1,468	13.0%	26.4%	8.3%	63.8%	1.4%
Total	11,258	100.0%	30.4%	7.2%	60.7%	1.7%

\*Other includes county jail, deferred sentences, useful public service, and unknown sentences.

Source: District Attorneys' Council Court Database.

The following tables analyze the likelihood of a prison commitment considering two aspects of an offender's criminal history: the number of prior felony convictions and the highest prior adult correctional placement. Table 8.2 displays the percentage of felony convictions resulting in a prison placement by felony class and prior felony

convictions. Table 8.3 reports the percentage of felony convictions resulting in a prison placement by felony class and the highest level of prior adult correctional supervision.

The tables show that, for each felony class, the probability of being committed to prison rises as the number of prior felony convictions increases and as the highest prior level of correctional supervision rises. Whereas only 20.7 percent those who were convicted of a felony in 1994, who had no prior adult felony convictions, were sent to prison, 80.3 percent of those with four or more separate prior adult felony convictions received prison sentences.

Table 8.3 illustrates that while only 22.3 percent of all convicted felons in 1994, without prior adult correctional supervision, were sentenced to prison, 71.2 percent of those with prior prison incarcerations were committed to the DOC. It should be noted that offenders without prior felony convictions or prior adult supervision are not necessarily first-time offenders since the tables do not take into account prior misdemeanor convictions, juvenile adjudications, or deferred prosecutions and sentences. Many of the 20.7 percent of offenders without prior felony convictions who were sentenced to prison have juvenile or misdemeanor criminal records or prior deferred judgements and are thus not authentic first-time offenders.

**Table 8.2: Percentage of Felony Convictions Resulting in a Prison Placement by Felony Class and Number of Prior Felony Convictions**

<b>FELONY</b>		<b>NUMBER OF PRIOR FELONY CONVICTIONS</b>				
<b>Class of Conviction</b>	<b>Total</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4 or More</b>
Class 1	100.0%	100.0%	100.0%	100.0%	NA	NA
Class 2	93.0%	91.2%	94.1%	100.0%	100.0%	NA
Class 3	39.3%	31.9%	50.2%	68.6%	77.3%	77.8%
Class 4	29.7%	21.4%	44.9%	62.7%	71.3%	85.7%
Class 5	27.6%	15.8%	44.7%	68.1%	65.6%	75.5%
Class 6	26.4%	15.8%	41.5%	60.4%	82.1%	85.0%
<b>Total All Felonies</b>	<b>30.4%</b>	<b>20.7%</b>	<b>45.6%</b>	<b>66.2%</b>	<b>70.9%</b>	<b>80.3%</b>

NA: Not Applicable.

Source: District Attorneys' Council Court Database.

**Table 8.3: Percentage of Felony Convictions Resulting in a Prison Placement by Felony Class and Highest Prior Level of Supervision**

<b>FELONY</b>		<b>HIGHEST PRIOR CORRECTIONAL SUPERVISION</b>			
<b>Class of Conviction</b>	<b>Total Prison Placements</b>	<b>No Prior Supervision</b>	<b>Probation</b>	<b>Community Corrections</b>	<b>Prison</b>
Class 1	100.0%	100.0%	100.0%	NA	100.0%
Class 2	93.0%	89.4%	95.0%	100.0%	100.0%
Class 3	39.3%	33.2%	34.5%	48.6%	71.8%
Class 4	29.7%	22.5%	26.1%	40.7%	72.6%
Class 5	27.6%	16.9%	21.7%	54.8%	70.9%
Class 6	26.4%	17.6%	18.0%	40.0%	68.4%
<b>Total All Felonies</b>	<b>30.4%</b>	<b>22.3%</b>	<b>24.7%</b>	<b>43.7%</b>	<b>71.2%</b>

NA: Not Applicable.

Source: District Attorneys' Council Court Database.

## **PLACEMENT OF CONVICTED FELONS BY CRIME**

Table 8.4 presents the highest correctional placement of convicted felons by the most serious crime of conviction for 1994. The table is organized by broad crime categories. Convictions for attempts and conspiracies at crimes are included in each crime category. A more detailed table that includes the placement of all convicted offenders by statute is included as Table 8.5 at the end of the chapter. In Table 8.5, crimes under Title 18, C.R.S., are arranged in ascending order by C.R.S. code, beginning with Section 18-3-102, C.R.S. (first-degree murder), at the top of the table. Crimes listed under all other C.R.S. titles are grouped together toward the end of the table.

Several patterns become apparent from Tables 8.4 and 8.5. Not surprisingly, the percentage of offenders receiving prison sentences drops significantly as the crime becomes less serious. Among crimes within each felony class, there are some general tendencies as well. For example, among class 3 and class 4 felonies, the percentage of violent and sex offenders receiving prison placements was generally higher than that for property crimes, such as motor vehicle theft or burglary, within the same felony class. Controlled substance abuse offenses were somewhat less likely to result in prison sentences than were violent or property crimes, but were among the crimes most likely to result in a community corrections placement. The vast majority (89.8 percent) of those convicted of an escape, escape attempt, or contraband infraction from a DOC, county jail, or community corrections facility received a prison sentence.

It should be noted that in many cases offenders are given two or more sentences. For example, someone convicted of a drug offense may be given concurrent sentences of one year in a community corrections program and two years of probation. To the degree that the available data allow, this table shows the highest level of correctional placement received by the offender. Thus, the offender in this example would appear as a community corrections placement rather than a probation placement.

**Table 8.4: Placement of Convicted Felons by Type of Crime**

Type of Crime (including Attempts, Conspiracies and Solicitations)	Number	Department of Corrections	Community Corrections	Probation	Other*
Murder	81	93.8%	3.7%	2.5%	0.0%
Manslaughter and Criminally Negligent Homicide	30	60.0%	0.0%	33.3%	6.7%
Assault	537	41.0%	3.2%	49.9%	6.0%
Vehicular Homicide and Vehicular Assault	97	25.8%	3.1%	63.9%	7.2%
Menacing and Extortion	538	19.5%	2.6%	76.2%	1.7%
Kidnaping and Custody Violations	58	46.6%	1.7%	50.0%	1.7%
Sexual Assault	526	40.1%	2.9%	54.8%	2.3%
Arson	22	22.7%	4.5%	72.7%	0.0%
Burglary	885	31.8%	8.8%	58.8%	0.7%
Robbery	387	55.0%	4.9%	36.4%	3.6%
Theft	1,468	25.0%	7.5%	66.8%	0.7%
Motor Vehicle Theft	299	39.1%	7.4%	51.2%	2.3%
Criminal Mischief	109	10.1%	6.4%	83.5%	0.0%
Criminal Trespass	651	20.9%	8.8%	70.0%	0.3%
Forgery	413	27.4%	5.6%	63.7%	3.4%
Criminal Impersonation	119	18.5%	11.8%	69.7%	0.0%
Fraud and Check Fraud	325	20.6%	7.4%	68.9%	3.1%
Child Abuse, Exploitation, Prostitution, and Contributing to Delinquency of a Minor	127	29.1%	1.6%	66.1%	3.1%
Escape and Contraband Offenses	596	89.8%	3.4%	5.9%	1.0%
Vehicular Eluding	82	30.5%	3.7%	65.9%	0.0%
Controlled Substance Offenses (Non-Marijuana)	2,627	20.7%	10.7%	68.1%	0.5%
Controlled Substance Offenses (Marijuana)	356	14.0%	5.3%	80.3%	0.3%
Driving After License Revoked	445	22.0%	11.5%	62.2%	4.3%
Other (Miscellaneous)	480	24.8%	5.2%	65.8%	4.2%
Total	11,258	30.4%	7.2%	60.7%	1.7%

\*Other includes county jail, deferred sentences, useful public service, and unknown sentences.

Source: District Attorneys' Council Court Database.

## **TRENDS IN SENTENCING PLACEMENTS: 1989-1995**

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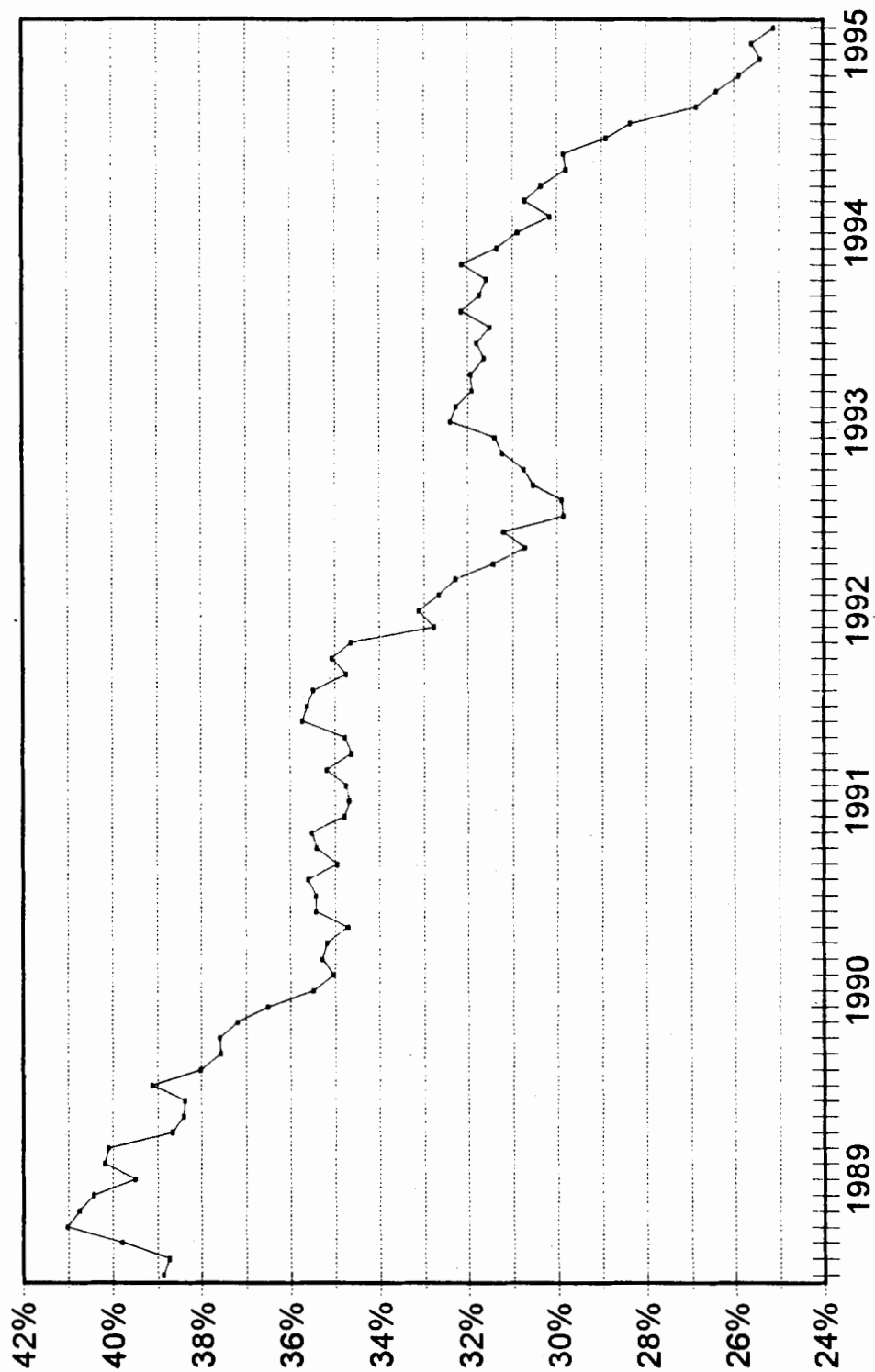
Although the number of annual new prison commitments rose during the last several years, the numbers of felony filings and felony convictions increased even more rapidly. Graphs 8.3 through 8.8 present the percent of felony convictions resulting in a prison placement as a six-month moving average for the seven-year period between 1989 and 1995. As shown in Graph 8.3, the percentage of convicted felons given prison sentences declined significantly, from 41.0 percent of convicted felons in the six months ended April 1989, to 25.3 percent of felony offenders in the six months ended June 1995. Graphs 8.5 through 8.8 show that this is true for felony classes 3 through 6, which comprise the vast majority of prison commitments. Graph 8.4 shows that there was not a similar downward trend in the percentage of felony class 2 convictions resulting in a prison sentence, likely because of the small number of class 2 felony convictions (only 86 in 1994).

These data show that the percentage of felons sent to prison for all but the most serious crimes has been declining. It suggests that the expansion of such sentencing alternatives as community corrections and intensive supervision probation have been successful in diverting some offenders away from prison sentences. While the proportion of convicted felons being sentenced to prison has been declining, most of the corresponding increase has been in the proportion of offenders sentenced to probation. The data do not differentiate between cases sentenced to regular probation versus intensive supervision probation (ISP), so it is not possible to determine how much of this increase in the use of probation is attributable to the expansion of the ISP program.

While the drop from 41.0 percent of felony convictions being sentenced to prison in 1989 to 25.3 percent in 1995 may seem substantial, there are a number of factors that make this drop less significant than it appears. First, the mixture of crimes has been changing, with the most rapid growth in the class 4, 5, and 6 felony levels, those that are least likely to result in a prison sentence. Second, within each of these felony classes, the most rapid growth in convictions has been in controlled substance abuse offenses which are generally less likely to result in prison incarceration than either violent or property crimes. Third, as mentioned previously in this chapter, the number of felony convictions has risen relative to the number of felony filings. This is partially because, compared with seven years ago, somewhat fewer cases filed as felonies are being pled to misdemeanors or deferred prosecutions. Cases plea bargained down to class 6 felonies instead of misdemeanors, for example, inflate the number of felony convictions but infrequently result in prison sentences, contributing to the decline in the percentage of felons going to prison.

**Graph 8.3: Percent of All Felony  
Convictions Resulting in DOC Placement**

**6-Month Moving Average**



**Graph 8.4: Percent of Class 2  
Convictions Resulting in DOC Placement**

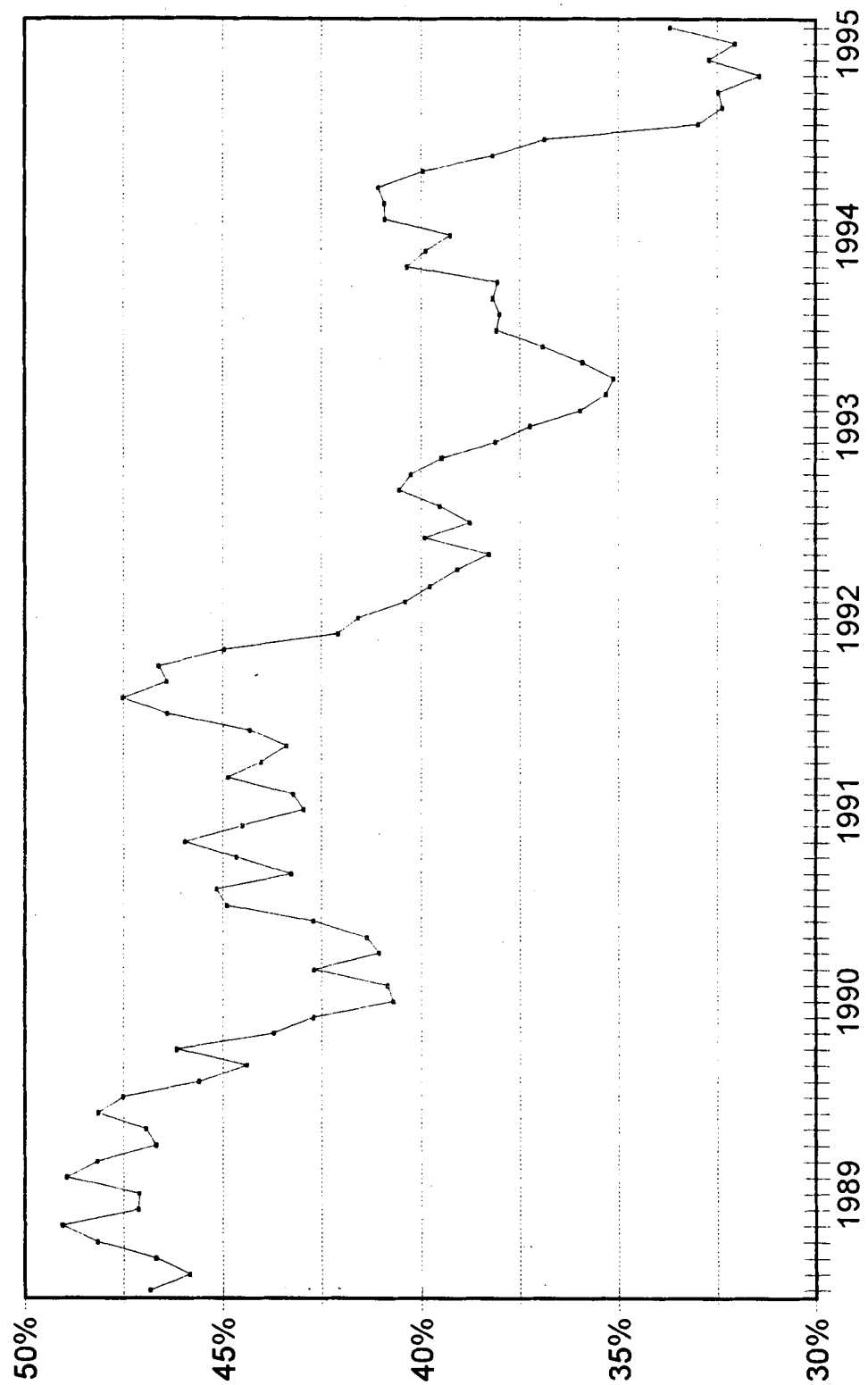
*6-Month Moving Average*



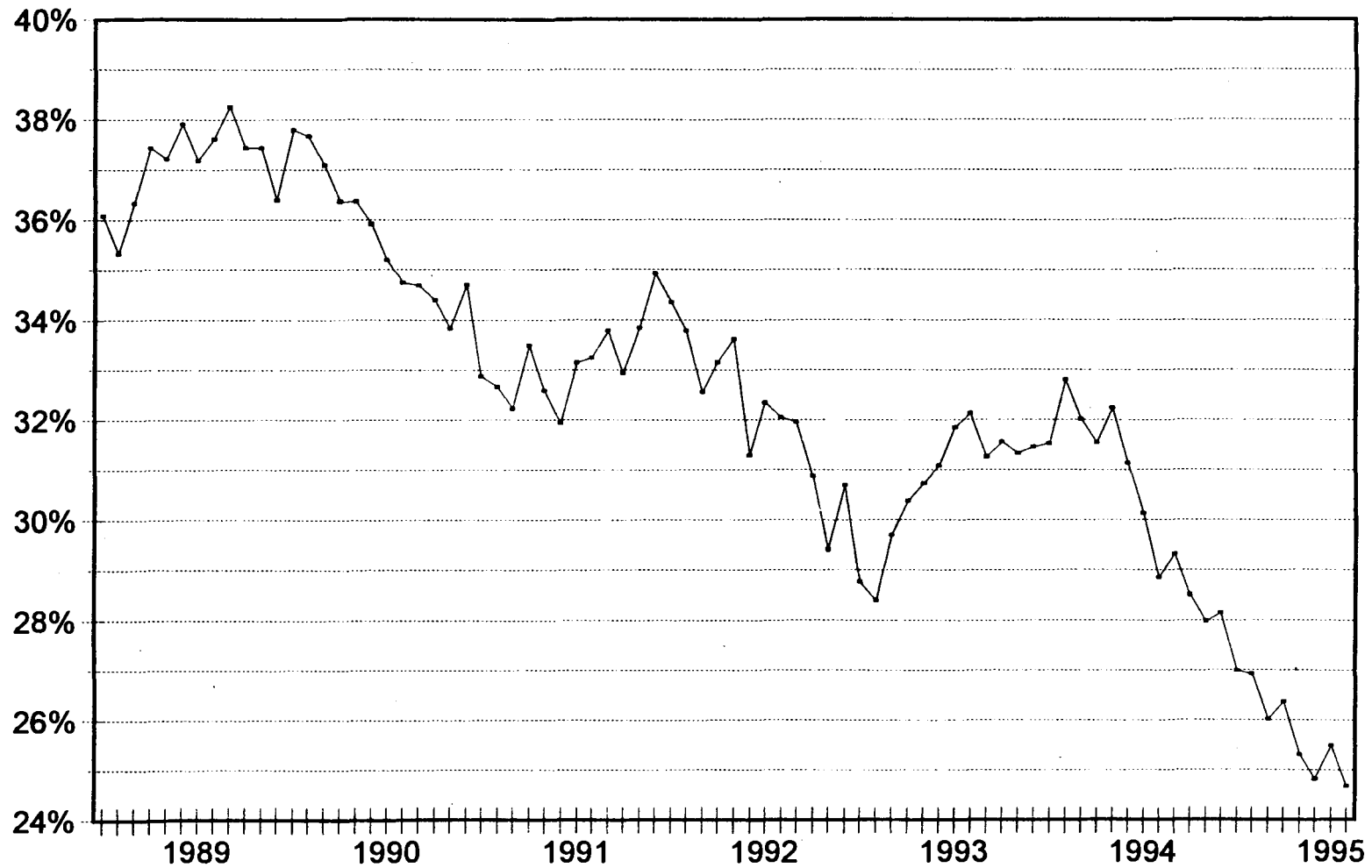


**Graph 8.5: Percent of Class 3  
Convictions Resulting in DOC Placement**

*6-Month Moving Average*

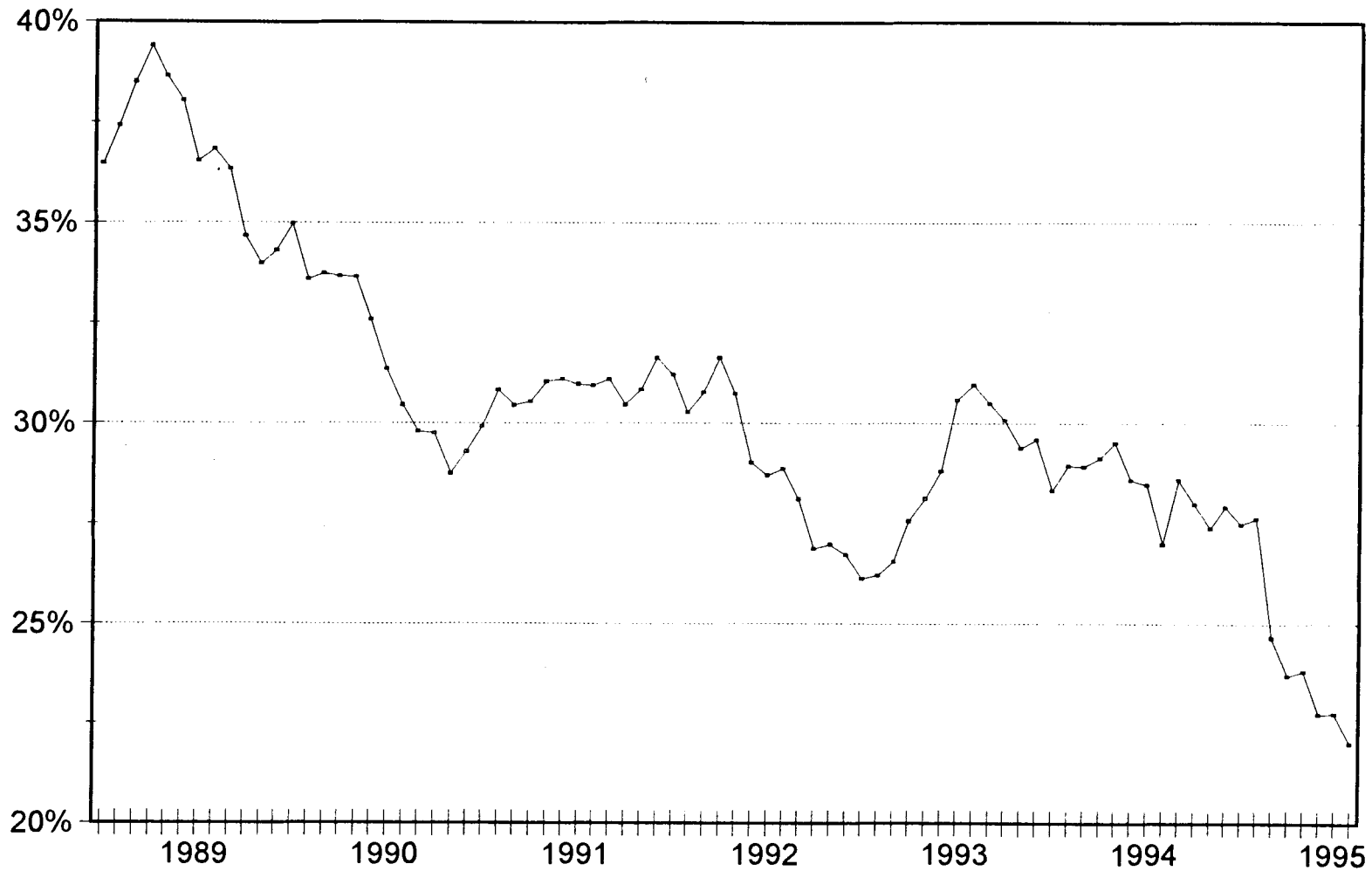


**Graph 8.6: Percent of Class 4  
Convictions Resulting in DOC Placement**  
*6-Month Moving Average*



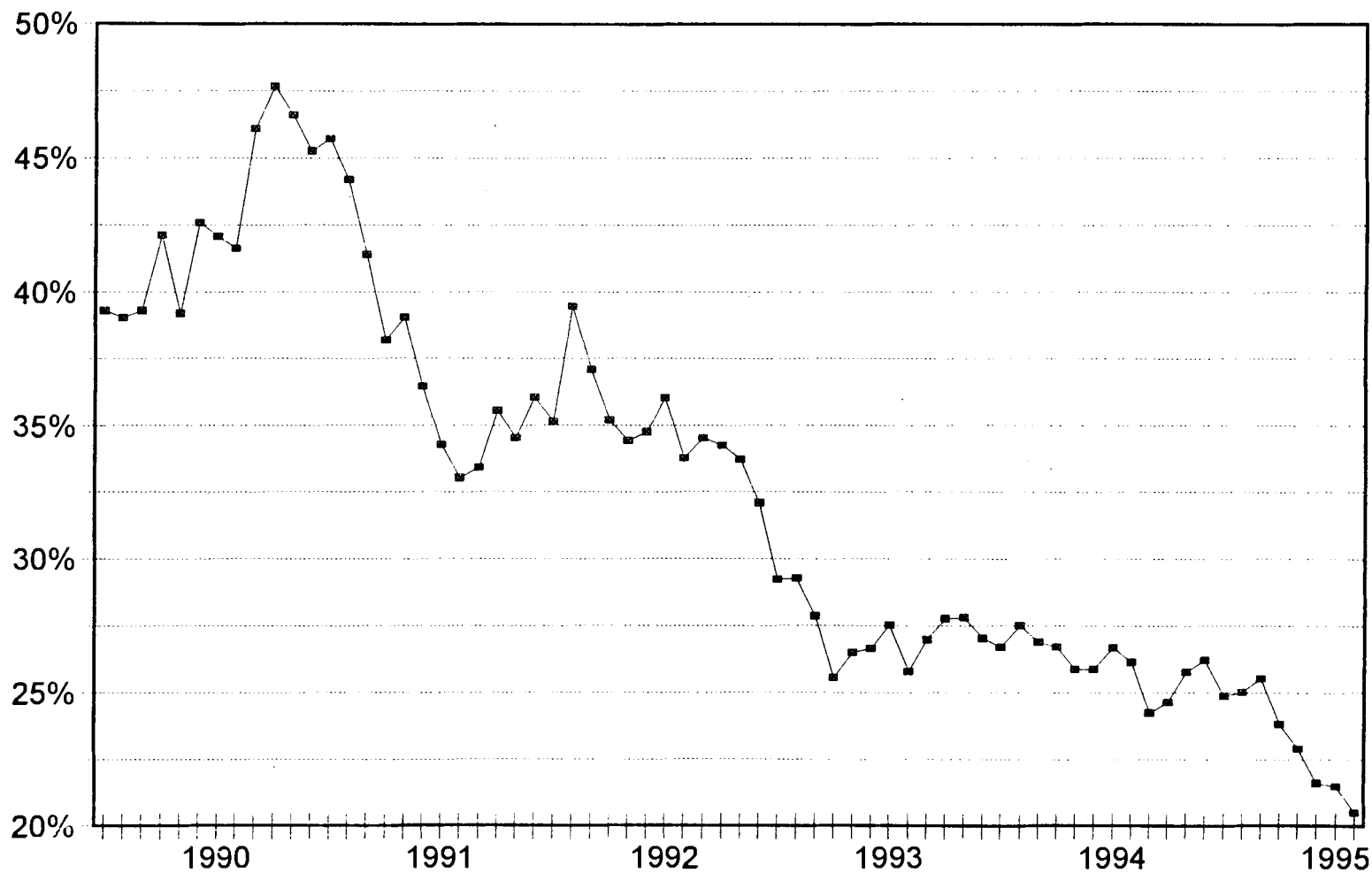
## Graph 8.7: Percent of Class 5 Convictions Resulting in DOC Placement

*6-Month Moving Average*



# **Graph 8.8: Percent of Class 6 Convictions Resulting in DOC Placement**

*6-Month Moving Average*



**Table 8.5: Placement of Convicted Felons by Crime of Conviction, 1994**

Statute Citation	Felony Class	Crime Description	Number	Department of Corrections	Community Corrections	Probation	Other*
18-3-102	1	1st Degree Murder	27	100.0%	0.0%	0.0%	0.0%
18-3-102	2	(Attempt)	17	100.0%	0.0%	0.0%	0.0%
18-3-102	2	(Conspiracy)	4	75.0%	0.0%	25.0%	0.0%
18-3-103	2	2nd Degree Murder	20	95.0%	5.0%	0.0%	0.0%
18-3-103	3	(Attempt)	12	75.0%	16.7%	8.3%	0.0%
18-3-103	3	(Conspiracy)	1	100.0%	0.0%	0.0%	0.0%
18-3-104	3	Manslaughter	3	100.0%	0.0%	0.0%	0.0%
18-3-104	4	Manslaughter	19	52.6%	0.0%	36.8%	10.5%
18-3-105	5	Criminally Negligent Homicide	8	62.5%	0.0%	37.5%	0.0%
18-3-106	3	Vehicular Homicide - DUI	7	71.4%	0.0%	28.6%	0.0%
18-3-106	4	Vehicular Homicide	17	35.3%	11.8%	52.9%	0.0%
18-3-202	3	1st Degree Assault	71	54.9%	2.8%	25.4%	16.9%
18-3-202	4	(Attempt)	43	48.8%	0.0%	48.8%	2.3%
18-3-202	4	(Conspiracy)	4	50.0%	0.0%	50.0%	0.0%
18-3-202	5	1st Degree Assault	23	47.8%	0.0%	52.2%	0.0%
18-3-202	6	(Attempt)	1	100.0%	0.0%	0.0%	0.0%
18-3-203	4	2nd Degree Assault	198	42.9%	2.0%	47.0%	8.1%
18-3-203	5	(Attempt)	108	30.6%	7.4%	62.0%	0.0%
18-3-203	5	(Conspiracy)	14	28.6%	0.0%	71.4%	0.0%
18-3-203	5	(Solicitation)	1	0.0%	0.0%	0.0%	100.0%
18-3-204	6	2nd Degree Assault	52	38.5%	3.8%	57.7%	0.0%
18-3-205	5	Vehicular Assault	54	20.4%	0.0%	68.5%	11.1%
18-3-205	6	(Attempt)	5	0.0%	20.0%	80.0%	0.0%
18-3-205	4	Vehicular Assault - DUI	13	15.4%	0.0%	76.9%	7.7%
18-3-205	5	(Conspiracy)	1	100.0%	0.0%	0.0%	0.0%
18-3-206	5	Felony Menacing	477	19.7%	2.7%	75.9%	1.7%
18-3-206	6	(Attempt)	20	10.0%	0.0%	90.0%	0.0%
18-3-206	6	(Conspiracy)	37	18.9%	0.0%	78.4%	2.7%
18-3-207	4	Criminal Extortion	3	66.7%	0.0%	33.3%	0.0%
18-3-207	5	(Attempt)	1	0.0%	100.0%	0.0%	0.0%
18-3-209	3	Assault on Elderly or Handicapped	1	0.0%	0.0%	100.0%	0.0%
18-3-209	4	(Attempt)	4	25.0%	0.0%	75.0%	0.0%
18-3-209	5	Assault on Elderly or Handicapped	6	16.7%	16.7%	50.0%	16.7%

**Table 8.5: Placement of Convicted Felons by Crime of Conviction, 1994**

Statute Citation	Felony Class	Crime Description	Number	Department of Corrections	Community Corrections	Probation	Other*
18-3-301	1	1st Degree Kidnapping	1	100.0%	0.0%	0.0%	0.0%
18-3-301	2	1st Degree Kidnapping	2	100.0%	0.0%	0.0%	0.0%
18-3-302	2	2nd Degree Kidnapping	11	90.9%	0.0%	9.1%	0.0%
18-3-302	3	(Attempt)	1	100.0%	0.0%	0.0%	0.0%
18-3-302	3	2nd Degree Kidnapping	5	60.0%	0.0%	40.0%	0.0%
18-3-302	4	2nd Degree Kidnapping	17	29.4%	5.9%	58.8%	5.9%
18-3-302	5	(Attempt)	6	0.0%	0.0%	100.0%	0.0%
18-3-302	5	(Conspiracy)	2	50.0%	0.0%	50.0%	0.0%
18-3-304	5	Violation of Custody	10	20.0%	0.0%	80.0%	0.0%
18-3-304	6	(Attempt)	1	0.0%	0.0%	100.0%	0.0%
18-3-305	4	Enticement of a Child	2	100.0%	0.0%	0.0%	0.0%
18-3-402	2	1st Degree Sexual Assault - Force	30	83.3%	0.0%	13.3%	3.3%
18-3-402	3	(Attempt)	3	100.0%	0.0%	0.0%	0.0%
18-3-402	3	1st Degree Sexual Assault	21	57.1%	0.0%	33.3%	9.5%
18-3-402	4	(Attempt)	17	41.2%	0.0%	52.9%	5.9%
18-3-403	4	2nd Degree Sexual Assault	42	45.2%	2.4%	52.4%	0.0%
18-3-403	5	(Attempt)	16	43.8%	6.3%	50.0%	0.0%
18-3-404	4	3rd Degree Sexual Assault - Force	6	0.0%	0.0%	100.0%	0.0%
18-3-404	5	(Attempt)	2	0.0%	0.0%	50.0%	50.0%
18-3-405	3	Sexual Assault on a Child	114	48.2%	6.1%	43.9%	1.8%
18-3-405	4	(Attempt)	4	25.0%	0.0%	75.0%	0.0%
18-3-405	4	Sexual Assault on a Child	209	31.6%	2.9%	63.6%	1.9%
18-3-405	5	(Attempt)	61	26.2%	0.0%	72.1%	1.6%
18-3-405	5	(Conspiracy)	1	0.0%	0.0%	100.0%	0.0%
18-4-102	3	1st Degree Arson	8	25.0%	0.0%	75.0%	0.0%
18-4-102	4	(Attempt)	3	33.3%	33.3%	33.3%	0.0%
18-4-103	5	2nd Degree Arson	5	20.0%	0.0%	80.0%	0.0%
18-4-103	6	(Attempt)	2	0.0%	0.0%	100.0%	0.0%
18-4-105	4	4th Degree Arson	3	0.0%	0.0%	100.0%	0.0%
18-4-105	5	(Attempt)	1	100.0%	0.0%	0.0%	0.0%
18-4-202	3	1st Degree Burglary of Drugs (Attempt)	1	0.0%	0.0%	100.0%	0.0%
18-4-202	3	1st Degree Burglary	36	41.7%	2.8%	52.8%	2.8%
18-4-202	4	(Attempt)	9	55.6%	0.0%	44.4%	0.0%

**Table 8.5: Placement of Convicted Felons by Crime of Conviction, 1994**

Statute Citation	Felony Class	Crime Description	Number	Department of Corrections	Community Corrections	Probation	Other*
18-4-202	4	(Conspiracy)	7	14.3%	28.6%	57.1%	0.0%
18-4-203	3	2nd Degree Burglary of a Dwelling	257	36.6%	11.7%	51.4%	0.4%
18-4-203	4	(Attempt)	51	35.3%	15.7%	49.0%	0.0%
18-4-203	4	(Conspiracy)	14	14.3%	14.3%	71.4%	0.0%
18-4-203	4	2nd Degree Burglary (Non-Dwelling)	289	31.1%	6.6%	61.6%	0.7%
18-4-203	5	(Attempt)	93	25.8%	8.6%	65.6%	0.0%
18-4-203	5	(Conspiracy)	37	18.9%	2.7%	78.4%	0.0%
18-4-204	5	3rd Degree Burglary	41	29.3%	9.8%	61.0%	0.0%
18-4-204	6	(Attempt)	14	57.1%	0.0%	42.9%	0.0%
18-4-204	6	(Conspiracy)	4	25.0%	25.0%	50.0%	0.0%
18-4-205	5	Possession of Burglary Tools	25	16.0%	8.0%	72.0%	4.0%
18-4-205	6	(Attempt)	2	0.0%	0.0%	100.0%	0.0%
18-4-205	6	Possession of Burglary Tools	5	0.0%	0.0%	80.0%	20.0%
18-4-301	4	Robbery	136	46.3%	7.4%	43.4%	2.9%
18-4-301	5	(Attempt)	30	30.0%	6.7%	63.3%	0.0%
18-4-301	5	(Conspiracy)	19	10.5%	0.0%	73.7%	15.8%
18-4-302	3	Aggravated Robbery	145	76.6%	2.1%	17.2%	4.1%
18-4-302	4	(Attempt)	22	72.7%	9.1%	18.2%	0.0%
18-4-302	4	(Conspiracy)	24	25.0%	8.3%	66.7%	0.0%
18-4-304	3	Robbery of the Elderly or Handicapped	5	60.0%	0.0%	40.0%	0.0%
18-4-304	4	(Attempt)	1	0.0%	0.0%	100.0%	0.0%
18-4-304	4	(Conspiracy)	1	0.0%	0.0%	100.0%	0.0%
18-4-401	3	Theft	44	31.8%	6.8%	61.4%	0.0%
18-4-401	4	(Attempt)	7	14.3%	14.3%	71.4%	0.0%
18-4-401	4	(Conspiracy)	7	28.6%	0.0%	71.4%	0.0%
18-4-401	4	Theft	807	23.4%	7.1%	69.1%	0.4%
18-4-401	5	(Attempt)	274	24.5%	9.1%	66.1%	0.4%
18-4-401	5	(Conspiracy)	65	12.3%	7.7%	80.0%	0.0%
18-4-401	3	Theft from the Elderly or Handicapped	7	14.3%	0.0%	85.7%	0.0%
18-4-401	4	Theft from the Elderly or Handicapped	3	33.3%	0.0%	66.7%	0.0%
18-4-401	5	(Attempt)	2	0.0%	0.0%	100.0%	0.0%
18-4-401	5	Theft from the Elderly or Handicapped	4	0.0%	25.0%	75.0%	0.0%
18-4-401	3	Theft Series	1	0.0%	0.0%	100.0%	0.0%

**Table 8.5: Placement of Convicted Felons by Crime of Conviction, 1994**

Statute Citation	Felony Class	Crime Description	Number	Department of Corrections	Community Corrections	Probation	Other*
18-4-401	5	Theft from a Person	57	36.8%	7.0%	49.1%	7.0%
18-4-401	6	(Attempt)	63	44.4%	6.3%	49.2%	0.0%
18-4-401	6	(Conspiracy)	5	20.0%	0.0%	80.0%	0.0%
18-4-402	3	Theft of Rental Property	1	0.0%	0.0%	0.0%	100.0%
18-4-402	4	(Attempt)	1	0.0%	0.0%	100.0%	0.0%
18-4-402	5	Theft of Rental Property	7	42.9%	14.3%	42.9%	0.0%
18-4-402	6	(Attempt)	3	0.0%	33.3%	66.7%	0.0%
18-4-402	6	Theft of Rental Property	2	0.0%	0.0%	100.0%	0.0%
18-4-409	3	Aggravated Motor Vehicle Theft	23	39.1%	13.0%	47.8%	0.0%
18-4-409	4	(Attempt)	8	50.0%	12.5%	25.0%	12.5%
18-4-409	4	(Conspiracy)	2	0.0%	0.0%	100.0%	0.0%
18-4-409	4	Aggravated Motor Vehicle Theft	166	34.3%	8.4%	56.6%	0.6%
18-4-409	5	(Attempt)	85	50.6%	4.7%	38.8%	5.9%
18-4-409	5	(Conspiracy)	15	26.7%	0.0%	73.3%	0.0%
18-4-410	3	Theft by Receiving	11	36.4%	0.0%	63.6%	0.0%
18-4-410	4	(Attempt)	2	0.0%	0.0%	100.0%	0.0%
18-4-410	4	(Conspiracy)	2	0.0%	50.0%	50.0%	0.0%
18-4-410	4	Theft by Receiving	44	31.8%	9.1%	59.1%	0.0%
18-4-410	5	(Attempt)	32	21.9%	6.3%	71.9%	0.0%
18-4-410	5	(Conspiracy)	2	0.0%	50.0%	50.0%	0.0%
18-4-410	5	Theft by Receiving	4	25.0%	0.0%	50.0%	25.0%
18-4-410	6	(Attempt)	1	100.0%	0.0%	0.0%	0.0%
18-4-412	6	Theft of Medical Records	5	20.0%	0.0%	80.0%	0.0%
18-4-501	3	Criminal Mischief	1	0.0%	0.0%	100.0%	0.0%
18-4-501	4	Criminal Mischief	82	9.8%	4.9%	85.4%	0.0%
18-4-501	5	(Attempt)	21	14.3%	14.3%	71.4%	0.0%
18-4-501	5	(Conspiracy)	5	0.0%	0.0%	100.0%	0.0%
18-4-502	5	1st Degree Criminal Trespass	473	22.0%	8.0%	69.6%	0.4%
18-4-502	6	(Attempt)	152	18.4%	10.5%	71.1%	0.0%
18-4-502	6	(Conspiracy)	24	12.5%	12.5%	75.0%	0.0%
18-4-503	4	2nd Degree Criminal Trespass on Farm Land	2	50.0%	0.0%	50.0%	0.0%
18-5-102	4	1st Degree Forgery	4	25.0%	0.0%	75.0%	0.0%
18-5-102	5	1st Degree Forgery	91	34.1%	7.7%	51.6%	6.6%



**Table 8.5: Placement of Convicted Felons by Crime of Conviction, 1994**

Statute Citation	Felony Class	Crime Description	Number	Department of Corrections	Community Corrections	Probation	Other*
18-5-102	6	(Attempt)	22	36.4%	0.0%	63.6%	0.0%
18-5-102	6	(Conspiracy)	3	66.7%	0.0%	33.3%	0.0%
18-5-103	4	2nd Degree Forgery	18	0.0%	5.6%	88.9%	5.6%
18-5-103	5	(Attempt)	1	0.0%	0.0%	100.0%	0.0%
18-5-103	5	2nd Degree Forgery	200	25.5%	5.5%	65.5%	3.5%
18-5-103	6	(Attempt)	59	27.1%	6.8%	66.1%	0.0%
18-5-103	6	(Conspiracy)	5	20.0%	0.0%	80.0%	0.0%
18-5-105	5	Possession of a 1st Degree Forged Instrument	2	0.0%	0.0%	100.0%	0.0%
18-5-105	6	Possession of a 1st Degree Forged Instrument	7	42.9%	0.0%	57.1%	0.0%
18-5-109	6	Possession of a Forgery Device	1	0.0%	0.0%	100.0%	0.0%
18-5-113	5	Criminal Impersonation	6	0.0%	16.7%	83.3%	0.0%
18-5-113	6	Criminal Impersonation	112	19.6%	11.6%	68.8%	0.0%
18-5-114	5	Offering a False Instrument for Recording	1	0.0%	0.0%	100.0%	0.0%
18-5-205	4	Fraud by Check	127	31.5%	1.6%	59.1%	7.9%
18-5-205	5	(Attempt)	5	0.0%	0.0%	100.0%	0.0%
18-5-205	5	Fraud by Check	141	14.9%	11.3%	73.8%	0.0%
18-5-205	6	(Attempt)	23	4.3%	13.0%	82.6%	0.0%
18-5-205	6	(Conspiracy)	2	0.0%	0.0%	100.0%	0.0%
18-5-205	6	Fraud by Check	20	20.0%	15.0%	65.0%	0.0%
18-5-206	3	Defrauding a Secured Creditor	1	0.0%	0.0%	100.0%	0.0%
18-5-206	5	Defrauding a Secured Creditor	5	20.0%	0.0%	80.0%	0.0%
18-5-401	6	Commercial Bribery	1	0.0%	0.0%	100.0%	0.0%
18-5-604	5	Distribution of an Imitation Controlled Substance	6	16.7%	0.0%	83.3%	0.0%
18-5-604	6	(Attempt)	1	0.0%	100.0%	0.0%	0.0%
18-5-702	4	Unauthorized Use of a Financial Transaction Device	1	0.0%	100.0%	0.0%	0.0%
18-5-702	5	Unauthorized Use of a Financial Transaction Device	17	23.5%	5.9%	70.6%	0.0%
18-5-703	5	Criminal Possession of a Financial Transaction Device	1	0.0%	0.0%	0.0%	100.0%
18-5-703	6	Criminal Possession of a Financial Transaction Device	14	21.4%	14.3%	57.1%	7.1%
18-5-802	4	Equity Skimming of Real Property	1	0.0%	0.0%	100.0%	0.0%
18-5.5-102	5	Computer Crime	2	0.0%	0.0%	100.0%	0.0%
18-6-201	6	Bigamy	1	0.0%	0.0%	100.0%	0.0%
18-6-301	3	Aggravated Incest	26	46.2%	3.8%	50.0%	0.0%
18-6-301	4	(Attempt)	2	100.0%	0.0%	0.0%	0.0%

**Table 8.5: Placement of Convicted Felons by Crime of Conviction, 1994**

Statute Citation	Felony Class	Crime Description	Number	Department of Corrections	Community Corrections	Probation	Other*
18-6-301	4	Aggravated Incest	1	0.0%	0.0%	100.0%	0.0%
18-6-301	4	Incest	6	16.7%	0.0%	83.3%	0.0%
18-6-301	5	(Attempt)	1	0.0%	0.0%	100.0%	0.0%
18-6-401	2	Child Abuse Resulting in Death	8	100.0%	0.0%	0.0%	0.0%
18-6-401	3	Child Abuse with Serious Injury	17	41.2%	0.0%	52.9%	5.9%
18-6-401	4	Child Abuse	32	28.1%	3.1%	65.6%	3.1%
18-6-401	5	(Attempt)	10	20.0%	0.0%	70.0%	10.0%
18-6-403	3	Sexual Exploitation of a Child	2	100.0%	0.0%	0.0%	0.0%
18-6-403	4	(Attempt)	2	50.0%	0.0%	50.0%	0.0%
18-6-404	3	Procurement of a Child for Sexual Exploitation	1	0.0%	0.0%	100.0%	0.0%
18-6-701	4	Contributing to the Delinquency of a Minor	45	15.6%	0.0%	82.2%	2.2%
18-6-701	5	(Attempt)	4	25.0%	25.0%	50.0%	0.0%
18-6-701	5	(Conspiracy)	1	0.0%	0.0%	100.0%	0.0%
18-6.5-103	5	3rd Degree Assault of an At-Risk Adult	8	12.5%	0.0%	75.0%	12.5%
18-6.5-103	6	(Attempt)	3	33.3%	0.0%	66.7%	0.0%
18-6.5-103	3	Robbery of an At-Risk Adult	3	100.0%	0.0%	0.0%	0.0%
18-6.5-103	4	(Attempt)	1	0.0%	0.0%	0.0%	100.0%
18-6.5-103	3	Theft from an At-Risk Adult	1	100.0%	0.0%	0.0%	0.0%
18-6.5-103	5	Theft from an At-Risk Adult	1	0.0%	0.0%	100.0%	0.0%
18-6.5-103	4	Theft from the person of an At-Risk Adult	3	66.7%	0.0%	33.3%	0.0%
18-7-203	5	Pandering for Prostitution	1	0.0%	0.0%	100.0%	0.0%
18-7-203	6	(Attempt)	1	0.0%	0.0%	100.0%	0.0%
18-7-203	6	(Conspiracy)	1	0.0%	0.0%	100.0%	0.0%
18-7-402	3	Soliciting for Child Prostitution	1	0.0%	0.0%	100.0%	0.0%
18-7-405.5	3	Inducement of Child Prostitution	1	0.0%	0.0%	100.0%	0.0%
18-8-105	4	Accessory to a Class 1 or 2 Felony Crime	5	20.0%	0.0%	80.0%	0.0%
18-8-105	5	(Conspiracy)	2	0.0%	0.0%	100.0%	0.0%
18-8-105	5	Accessory to a Class 1 or 2 Felony Crime	5	20.0%	0.0%	60.0%	20.0%
18-8-105	5	Accessory to a Class 3 or 4 Felony Crime	18	27.8%	5.6%	66.7%	0.0%
18-8-105	6	(Attempt)	1	0.0%	0.0%	100.0%	0.0%
18-8-110	6	False Reporting of Explosives	1	0.0%	0.0%	100.0%	0.0%
18-8-116	6	Disarming a Police Officer (Attempt)	4	75.0%	0.0%	25.0%	0.0%
18-8-201	3	Aiding in Escape - Not Class 1 or 2 Felony	1	0.0%	0.0%	100.0%	0.0%

Table 8.5: Placement of Convicted Felons by Crime of Conviction, 1994

Statute Citation	Felony Class	Crime Description	Number	Department of Corrections	Community Corrections	Probation	Other
18-8-203	4	1st Degree Introduction of Contraband	11	36.4%	9.1%	54.5%	0.0%
18-8-203	5	(Attempt)	7	57.1%	0.0%	42.9%	0.0%
18-8-204	5	2nd Degree Introduction of Contraband	2	50.0%	50.0%	0.0%	0.0%
18-8-204	6	(Attempt)	1	100.0%	0.0%	0.0%	0.0%
18-8-204	6	2nd Degree Introduction of Contraband	1	0.0%	0.0%	0.0%	100.0%
18-8-204	6	1st Degree Possession of Contraband	11	81.8%	9.1%	9.1%	0.0%
18-8-208	3	Escape - Convicted Felon	37	86.5%	2.7%	10.8%	0.0%
18-8-208	4	(Attempt)	90	94.4%	0.0%	5.6%	0.0%
18-8-208	4	Escape - Pending Felony	336	92.6%	4.2%	2.4%	0.9%
18-8-208	5	(Attempt)	20	85.0%	0.0%	10.0%	5.0%
18-8-208	5	(Conspiracy)	1	0.0%	0.0%	100.0%	0.0%
18-8-208	5	Escape From Insane Asylum - Originally Charged with a Felony Crime	12	83.3%	0.0%	8.3%	8.3%
18-8-208	5	Escape From Fugitive Charges	45	97.8%	2.2%	0.0%	0.0%
18-8-208	6	(Attempt)	2	100.0%	0.0%	0.0%	0.0%
18-8-211	3	Participating in a Riot in a Detention Facility	2	100.0%	0.0%	0.0%	0.0%
18-8-212	5	Failure to Appear Felony	2	100.0%	0.0%	0.0%	0.0%
18-8-212	6	Violation of Bail Bond	11	72.7%	9.1%	18.2%	0.0%
18-8-302	3	Bribery	2	0.0%	50.0%	0.0%	50.0%
18-8-302	4	(Attempt)	1	0.0%	0.0%	100.0%	0.0%
18-8-306	4	Attempting to Influence a Public Servant	3	0.0%	0.0%	100.0%	0.0%
18-8-407	4	Embezzlement of Public Property	1	0.0%	0.0%	100.0%	0.0%
18-8-407	5	Embezzlement of Public Property	1	0.0%	0.0%	100.0%	0.0%
18-8-502	4	1st Degree Perjury	4	75.0%	0.0%	25.0%	0.0%
18-8-602	4	Bribing a Witness	1	0.0%	100.0%	0.0%	0.0%
18-8-610	6	Tampering with Evidence	6	0.0%	0.0%	100.0%	0.0%
18-8-704	4	Intimidating a Victim	10	20.0%	0.0%	70.0%	10.0%
18-8-704	5	(Attempt)	6	0.0%	0.0%	83.3%	16.7%
18-8-707	4	Tampering with a Witness or a Victim	7	42.9%	14.3%	42.9%	0.0%
18-8-707	5	(Attempt)	2	0.0%	0.0%	100.0%	0.0%
18-9-115	3	Endangering Public Transportation	1	100.0%	0.0%	0.0%	0.0%
18-9-116.5	3	Vehicular Eluding - Death Resulting	1	100.0%	0.0%	0.0%	0.0%
18-9-116.5	4	Vehicular Eluding - Injury Resulting	10	50.0%	10.0%	40.0%	0.0%

**Table 8.5: Placement of Convicted Felons by Crime of Conviction, 1994**

Statute Chapter	Felony Class	Crime Description	Number Felonies	Department of Corrections	Community Corrections	Detention Institution	Other Other
18-9-116.5	5	Vehicular Eluding - No Injury	60	23.3%	3.3%	73.3%	0.0%
18-9-116.5	6	(Attempt)	11	45.5%	0.0%	54.5%	0.0%
18-9-118	6	Carrying a Firearm on Public Transportation	1	0.0%	0.0%	100.0%	0.0%
18-9-119	5	Failure to Leave Premises	1	0.0%	100.0%	0.0%	0.0%
18-10-105	6	Possession of Gambling Devices (Attempt)	1	0.0%	0.0%	100.0%	0.0%
18-12-102	5	Possession of an Illegal Weapon	13	23.1%	0.0%	76.9%	0.0%
18-12-102	6	(Attempt)	4	50.0%	0.0%	50.0%	0.0%
18-12-106	5	Prohibited Use of Weapons	2	50.0%	0.0%	50.0%	0.0%
18-12-106.5	5	Use of a Stun Gun	1	0.0%	0.0%	100.0%	0.0%
18-12-107.5	5	Illegal Discharge of a Firearm	17	29.4%	0.0%	41.2%	29.4%
18-12-107.5	6	(Attempt)	3	0.0%	0.0%	100.0%	0.0%
18-12-108	5	Possession of a Weapon by a Previous Offender	17	64.7%	11.8%	17.6%	5.9%
18-12-108	6	(Attempt)	4	25.0%	0.0%	75.0%	0.0%
18-12-108.5	5	Illegal Possession of a Handgun by a Juvenile	1	100.0%	0.0%	0.0%	0.0%
18-12-108.7	4	Provisioning a Juvenile with a Handgun	1	0.0%	0.0%	100.0%	0.0%
18-12-109	4	Possession or Use of Explosives	9	0.0%	0.0%	88.9%	11.1%
18-12-109	5	(Attempt)	1	0.0%	0.0%	100.0%	0.0%
18-12-109	5	(Conspiracy)	3	0.0%	33.3%	66.7%	0.0%
18-12-109	6	Use of Hoax Explosive (Attempt)	1	0.0%	0.0%	100.0%	0.0%
18-13-104	5	Dueling (Attempted)	1	0.0%	0.0%	100.0%	0.0%
18-13-105	6	Criminal Libel	1	0.0%	0.0%	100.0%	0.0%
18-16-103	6	Failure to Identify Seller	2	0.0%	0.0%	100.0%	0.0%
18-16-105	5	Failure to Obtain Declaration	1	0.0%	0.0%	100.0%	0.0%
18-16-105	5	False Information Upon Sale - Ownership	2	50.0%	0.0%	50.0%	0.0%
18-16-105	6	(Attempt)	1	0.0%	0.0%	100.0%	0.0%
18-16-105	6	False Information Upon Sale - Ownership	6	50.0%	0.0%	50.0%	0.0%
18-16-108	6	Falsifying Sales Information	8	0.0%	0.0%	100.0%	0.0%
18-18-104	5	Unlawful use of a Schedule I or II Controlled Substance	146	9.6%	9.6%	80.8%	0.0%
18-18-105	3	Possession of Schedule I Controlled Substances	45	28.9%	11.1%	60.0%	0.0%
18-18-105	4	(Attempt)	14	21.4%	28.6%	50.0%	0.0%
18-18-105	4	(Conspiracy)	1	0.0%	0.0%	100.0%	0.0%

**Table 8.5: Placement of Convicted Felons by Crime of Conviction, 1994**

Statute Citation	Felony Class	Crime Description	Number	Department of Corrections	Community Corrections	Probation	Other*
18-18-105	2	Distribution of Schedule I Controlled Substances - 2nd Offense	2	50.0%	0.0%	50.0%	0.0%
18-18-105	3	(Attempt)	3	0.0%	66.7%	0.0%	33.3%
18-18-105	3	Distribution of Schedule I Controlled Substances	12	33.3%	25.0%	41.7%	0.0%
18-18-105	4	(Attempt)	1	0.0%	0.0%	100.0%	0.0%
18-18-105	4	(Conspiracy)	1	100.0%	0.0%	0.0%	0.0%
18-18-105	3	Possession/Sale/Distribution of > 28 Grams of Cocaine	21	38.1%	9.5%	52.4%	0.0%
18-18-105	4	(Attempt)	1	0.0%	0.0%	100.0%	0.0%
18-18-105	4	(Conspiracy)	1	100.0%	0.0%	0.0%	0.0%
18-18-105	2	Possession of Schedule II Controlled Substance - 2nd Offense	21	42.9%	9.5%	47.6%	0.0%
18-18-105	3	Possession of Schedule II Controlled Substance	239	15.5%	16.7%	67.8%	0.0%
18-18-105	4	(Attempt)	99	20.2%	18.2%	61.6%	0.0%
18-18-105	4	(Conspiracy)	13	46.2%	7.7%	46.2%	0.0%
18-18-105	3	Possession of Schedule II Controlled Substance with Intention to Distribute	26	38.5%	11.5%	50.0%	0.0%
18-18-105	4	(Attempt)	8	0.0%	0.0%	100.0%	0.0%
18-18-105	3	Distribution of Schedule II Controlled Substance	363	26.2%	4.4%	68.6%	0.8%
18-18-105	4	(Attempt)	149	28.2%	10.7%	60.4%	0.7%
18-18-105	4	(Conspiracy)	19	0.0%	21.1%	78.9%	0.0%
18-18-105	3	Manufacture of Schedule II Controlled Substance	1	0.0%	0.0%	100.0%	0.0%
18-18-105	4	Possession of Schedule III Controlled Substance	258	23.6%	16.3%	59.7%	0.4%
18-18-105	5	(Attempt)	3	0.0%	33.3%	66.7%	0.0%
18-18-105	4	Distribution of Schedule III Controlled Substance	108	33.3%	0.0%	63.9%	2.8%
18-18-105	5	(Attempt)	1	0.0%	0.0%	100.0%	0.0%
18-18-105	4	Possession of Schedule IV Controlled Substance	2	0.0%	0.0%	100.0%	0.0%
18-18-105	5	Possession of Schedule IV Controlled Substance	636	17.5%	14.0%	68.6%	0.0%
18-18-105	6	(Attempt)	78	19.2%	7.7%	73.1%	0.0%
18-18-105	6	(Conspiracy)	3	33.3%	0.0%	66.7%	0.0%
18-18-105	5	Distribution of Schedule IV Controlled Substance	67	14.9%	1.5%	83.6%	0.0%
18-18-105	6	(Attempt)	7	14.3%	0.0%	71.4%	14.3%
18-18-105	6	(Conspiracy)	2	50.0%	0.0%	50.0%	0.0%

**Table 8.5: Placement of Convicted Felons by Crime of Conviction, 1994**

Statute Citation	Felony Class	Crime Description	Number	Department of Corrections	Community Corrections	Probation	Other*
18-18-106	4	Distribution of Marijuana	96	13.5%	6.3%	80.2%	0.0%
18-18-106	5	(Attempt)	22	18.2%	4.5%	77.3%	0.0%
18-18-106	5	(Conspiracy)	6	16.7%	0.0%	83.3%	0.0%
18-18-106	4	Conspiracy to Distribute Marijuana	9	11.1%	0.0%	88.9%	0.0%
18-18-106	3	Possession of Marijuana with Intent to Distribute - 2nd Offense	1	0.0%	0.0%	100.0%	0.0%
18-18-106	4	Possession of Marijuana with Intent to Distribute	48	12.5%	12.5%	75.0%	0.0%
18-18-106	5	(Attempt)	16	25.0%	6.3%	68.8%	0.0%
18-18-106	5	(Conspiracy)	6	16.7%	0.0%	83.3%	0.0%
18-18-106	4	Cultivation of Marijuana	15	6.7%	0.0%	93.3%	0.0%
18-18-106	5	(Attempt)	1	0.0%	0.0%	100.0%	0.0%
18-18-106	5	(Conspiracy)	2	0.0%	0.0%	100.0%	0.0%
18-18-106	5	Possession of More Than 8 Ounces of Marijuana	101	13.9%	4.0%	82.2%	0.0%
18-18-106	6	(Attempt)	21	23.8%	0.0%	71.4%	4.8%
18-18-106	6	(Conspiracy)	4	0.0%	0.0%	100.0%	0.0%
18-18-106	5	Possession of Marijuana Concentrate	7	0.0%	14.3%	85.7%	0.0%
18-18-106	6	(Attempt)	1	0.0%	0.0%	100.0%	0.0%
18-18-404	5	Use of a Schedule 1 Controlled Substance	5	0.0%	20.0%	80.0%	0.0%
18-18-404	5	Use of a Schedule 2 Controlled Substance	111	18.0%	5.4%	75.7%	0.9%
18-18-404	6	(Attempt)	3	0.0%	0.0%	100.0%	0.0%
18-18-407	2	Special Drug Offender - Over 100 Pounds of Marijuana	2	0.0%	0.0%	100.0%	0.0%
18-18-407	2	Special Drug Offender - Importation of Controlled Substance	14	42.9%	0.0%	57.1%	0.0%
18-18-415	4	Obtaining a Controlled Substance through Fraud	1	0.0%	100.0%	0.0%	0.0%
18-18-415	5	Obtaining a Controlled Substance through Fraud	104	11.5%	1.9%	85.6%	1.0%
18-18-415	6	(Attempt)	9	11.1%	0.0%	88.9%	0.0%
18-18-415	6	(Conspiracy)	1	0.0%	0.0%	100.0%	0.0%
18-18-415	5	False and Forged Prescription	8	12.5%	12.5%	75.0%	0.0%
18-18-415	6	(Attempt)	1	0.0%	0.0%	100.0%	0.0%
18-18-422	4	Distribution of an Imitation Controlled Substance to a Minor	1	0.0%	0.0%	100.0%	0.0%
18-18-422	5	Distribution of an Imitation Controlled Substance	9	33.3%	11.1%	55.6%	0.0%
18-18-422	6	(Attempt)	12	33.3%	0.0%	58.3%	8.3%
11-51-501	3	Securities Fraud	1	0.0%	0.0%	100.0%	0.0%

**Table 8.5: Placement of Convicted Felons by Crime of Conviction, 1994**

Statute Citation	Felony Class	Crime Description	Number	Department of Corrections	Community Corrections	Probation	Other*
12-44-102	5	Defrauding an Innkeeper	1	100.0%	0.0%	0.0%	0.0%
12-44-102	6	Defrauding an Innkeeper	6	33.3%	0.0%	50.0%	16.7%
12-47-128	5	Unlawful Acts of Gambling	1	0.0%	0.0%	100.0%	0.0%
12-47.1-802	5	False Statement on Gaming Apparatus	2	0.0%	0.0%	100.0%	0.0%
12-47.1-802	6	(Attempt)	1	0.0%	0.0%	100.0%	0.0%
12-56-103	5	Giving False Information to a Pawnbroker	161	21.1%	6.2%	70.8%	1.9%
12-56-103	6	(Attempt)	24	29.2%	8.3%	62.5%	0.0%
12-56-103	6	(Conspiracy)	1	100.0%	0.0%	0.0%	0.0%
26-1-127	4	Public Assistance Theft	1	0.0%	0.0%	100.0%	0.0%
29-22-108	5	Hazardous Substance Offenses	1	0.0%	0.0%	100.0%	0.0%
33-6-113	5	Illegal Sale or Purchase of Wildlife	2	0.0%	0.0%	100.0%	0.0%
35-43-128	6	Theft of Animals	1	0.0%	0.0%	100.0%	0.0%
39-26-120	5	False or Fraudulent Sales Tax Return	1	0.0%	0.0%	0.0%	100.0%
42-2-206	5	Driving After Revocation Prohibited	28	3.6%	21.4%	75.0%	0.0%
42-2-206	6	(Attempt)	1	0.0%	0.0%	0.0%	100.0%
42-2-206	6	Driving After Revocation Prohibited	416	23.3%	10.8%	61.5%	4.3%
42-4-1401	4	Hit and Run Accident Involving Death	1	100.0%	0.0%	0.0%	0.0%
42-5-102	5	Altering a Vehicle Identification Number - Stolen Auto Parts	8	25.0%	0.0%	75.0%	0.0%
42-5-103	6	Tampering With Motor Vehicles	1	0.0%	0.0%	0.0%	100.0%
42-5-104	5	Theft of Auto Parts	1	0.0%	0.0%	100.0%	0.0%
42-5-104	6	(Attempt)	1	100.0%	0.0%	0.0%	0.0%
Totals: All Felony Convictions			11,258	30.4%	7.2%	60.7%	1.7%

\*Other includes county jail, deferred sentences, useful public service, and unknown sentences.

Source: District Attorneys' Council Court Database.

## **Chapter 9 — History of Colorado's Adult Correctional Sentencing Laws: 1979 to 1995**

The purpose of this chapter is to provide a history of adult correctional sentencing laws in Colorado from 1979 to the present. At the end of this chapter, there are three extensive tables that detail the sentencing law in Colorado as of July 1, 1979, July 1, 1985, and July 1, 1995. There were significant changes to sentencing laws implemented on these dates, with the exception of 1995, which is provided to reflect current law. The information that follows provides a brief overview of the major sentencing components detailed in each of the attached sentencing tables. A table of sentencing laws for each year is available from Legislative Council Staff. This chapter is divided into five major categories as follows:

- Sentencing Ranges
- Special Sentencing Categories
- Habitual Offender Statutes
- Good Time and Earned Time
- Parole



## SENTENCING RANGES

Table 9.1 chronicles changes to the presumptive range for each felony class, as well as current law. The presumptive range is the range from the minimum to the maximum sentence to be imposed for each felony class. It does not include the sentencing range for special or extraordinary circumstances.

**Table 9.1: Felony Class Presumptive Ranges**

		1979				1985
1	Minimum	Life	Life	Life	Life	Life
	Maximum	Death	Death	Death	Death	Death
2	Minimum	8 years	8 years	8 years	8 years	8 years
	Maximum	12 years	24 years	24 years	24 years	24 years
3	Minimum	4 years	4 years	4 years	4 years	4 years
	Maximum	8 years	16 years	10 years	12 years	12 years
4	Minimum	2 years	2 years	2 years	2 years	2 years
	Maximum	4 years	8 years	8 years	6 years	6 years
5	Minimum	1 year	1 year	1 year	1 year	1 year
	Maximum	2 years	4 years	4 years	3 years	3 years
6	Minimum	NA	NA	1 year	1 year	1 year
	Maximum	NA	NA	2 years	18 months	18 months

NA: Not applicable. The class 6 felony did not exist until 1989

Persons sentenced for a crime committed prior to July 1, 1979, were sentenced under an "indeterminate" sentencing scheme, wherein broad ranges existed between the minimum and maximum number of years to which an offender could be sentenced. However, in 1979, the legislature enacted House Bill 1589 which established a presumptive range for each felony class, consisting of a minimum and maximum sentence.

In 1985, the legislature adopted House Bill 1320, which doubled the maximum sentence for all felony classes. Since 1985, the felony presumptive ranges have been reduced by 25 percent for class 3, 4, 5, and 6 non-violent felonies. Doubling the sentences in 1985 basically brought Colorado full circle in its approach to criminal

sentencing, as the broadening increased the discretionary sentencing range of the trial judge. Such wide discretion existed prior to 1979 and again exists today. Although the sentencing ranges for some felonies were reduced in 1993, the reduction only applied to non-violent offenses. The legislature reduced the presumptive range for non-violent crimes, but created an "extraordinary risk of harm to society" special sentencing category consisting of violent offenses. The sentencing range for the enhanced category is the range for each felony class that existed prior to the reduction. Additional information on special sentencing categories is detailed in the next section. Thus, Colorado's existing sentencing ranges allow a wide degree of discretion to trial judges.

## **SPECIAL SENTENCING CATEGORIES**

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Since 1979, the statutes have specified a presumptive sentencing range for each felony class. However, the legislature has also established special sentencing circumstances that allow the trial judge to impose a sentence that departs from the presumptive range upon finding special circumstances. These special sentencing circumstances are detailed as follows.

***Extraordinary mitigating or aggravating circumstances sentences.*** This special category has existed since 1979. Pursuant to Section 18-1-105 (6), C.R.S., if the court concludes that extraordinary mitigating or aggravating circumstances are present, it may impose a sentence that is lesser or greater than the presumptive range; except that the term may not be greater than twice the maximum of the presumptive range nor less than one-half the minimum.

***Crime of violence.*** This special sentencing category has also been in existence since 1979, Section 16-11-309, C.R.S. In 1979, for crimes of violence, the sentence imposed was to be at least the minimum of the presumptive range. The definition of a "crime of violence" has changed throughout the time period analyzed. "Crime of violence" in 1979 was defined as a crime in which the defendant used, or possessed and threatened use, of a deadly weapon during the commission of murder, first or second degree assault, kidnapping, sexual assault, robbery, first degree arson, first or second degree burglary, escape, or criminal extortion, or who caused serious bodily injury or death to any other person during the commission of a felony, or immediate flight therefrom. In 1981, the definition of "crime of violence" was amended to include any crime committed against an elderly or handicapped person. The sentencing range for this category was also changed to at least the maximum sentence in the presumptive range, but not more than twice the maximum sentence in the presumptive range.

The definition was further amended in 1982, to include any unlawful sexual offense in which the defendant caused bodily injury to the victim or in which the defendant used threat, intimidation, or force against the victim. It was expanded again in 1983 to include **attempted** commission as well as commission of offenses. In 1988, the sentencing range was again changed to a minimum sentence of the midpoint in the presumptive range, but not more than twice the maximum penalty in the presumptive range.

Since 1988, the definition has been amended three times: in 1991, to include any crime committed against an at-risk adult (any person who is 60 years of age or older or any person who is 18 years of age or older and is a person with a disability); in 1993, to change the wording "handicapped person" to "person with a disability;" and in 1994, by reorganizing the provisions so that the specific offenses in the prior definition would be listed in a separate subparagraph.

Currently, a crime of violence is defined as one of the following: crimes that a person committed, conspired to commit, or attempted to commit, and during which the person used, or possessed and threatened use of a deadly weapon, or caused serious bodily injury or death to any other person; a crime against an at-risk adult or an at-risk juvenile; murder; first or second degree assault; kidnapping; sexual assault; aggravated robbery; first degree arson; first degree burglary; escape; or criminal extortion. In addition, "crime of violence" includes any unlawful sexual offense in which the defendant caused bodily injury to the victim or in which the defendant used threat, intimidation, or force against the victim.

***Extraordinary aggravating circumstances.*** In 1981, the legislature added the "extraordinary aggravating circumstances" category. The sentencing range for this category in 1981 was at least the maximum of the presumptive range, but not more than twice the maximum of the presumptive range. The minimum of the range was reduced in 1988 to at least the midpoint in the presumptive range. The maximum of this special sentencing category range (twice the maximum of the presumptive range) was unchanged. Since 1981, the sentencing range for "crime of violence" and "extraordinary aggravating circumstances" has been the same.

Pursuant to Section 18-1-105 (9), C.R.S., the presence of any one or more of the following circumstances qualifies as an extraordinary aggravating circumstance. The defendant:

- (1) was convicted of a crime of violence as defined by Section 16-11-309, C.R.S.;
- (2) was on parole for another felony at the time the felony was committed;
- (3) was on probation for another felony at the time the felony was committed;
- (4) was charged with or was on bond for a previous felony, for which previous felony the defendant was subsequently convicted; or
- (5) was under prison confinement in a state correctional institution.

In 1986, the definition for extraordinary aggravating circumstances was expanded to include situations in which the defendant:

- (1) was on appeal bond;
- (2) was under deferred judgement;
- (3) was on parole for having been adjudicated a delinquent child which would constitute a felony if committed by an adult;
- (4) was convicted of class 2 or class 3 child abuse;
- (5) was convicted of class 2 sexual assault in the first degree; or
- (6) other circumstances as the court may decide.

The definition was amended again in 1987 to add the condition that the defendant was on bond for having pled guilty to a lesser offense when the original charge was a felony. Four of the above noted conditions were moved to a new category in 1990, called "sentence-enhancing circumstances," which carries the same maximum sentence, but a lower minimum sentence. The following circumstances were moved. The defendant:

- (1) was charged with or was on bond for a previous felony at the time the felony was committed, for which previous felony the defendant was subsequently convicted;
- (2) was on bond for having pled guilty to a lesser offense when the original offense charged was felony;
- (3) was under a deferred judgement and sentence for another felony; or
- (4) was on parole for having been adjudicated a delinquent child for an offense which would constitute a felony if committed by an adult.

***Sentence-enhancing circumstances.*** This special category was added in 1990. The sentencing range for this category is at least the minimum of the presumptive range, but not more than twice the maximum sentence of the presumptive range. The presence of any one of the following qualifies as a sentence-enhancing circumstance. The defendant:

- (1) was charged with or was on bond for a previous felony at the time the felony was committed, for which previous felony the defendant was subsequently convicted;
- (2) was on bond for having pled guilty to a lesser offense when the original offense charged was a felony;
- (3) was under a deferred judgement and sentence for another felony; or
- (4) was on parole for having been adjudicated as a delinquent child for an offense which would constitute a felony if committed by an adult.

As previously discussed, all of the above noted circumstances were considered extraordinary aggravating circumstances prior to 1990. In creating this sentence-enhancing category, the overall sentencing range for these conditions was reduced from a sentence at the midpoint in the presumptive range to the minimum of the presumptive range for each felony class.

***Extraordinary risk of harm to society.*** This category was added in 1993. Pursuant to Section 18-1-105 (9.7), C.R.S., the sentencing range for offenses presenting an extraordinary risk of harm to society is as follows: for class 3 felonies, the maximum sentence of the presumptive range is increased by four years; for class 4 felonies, the maximum of the presumptive range is increased by two years; for class 5 felonies, the maximum of the presumptive range is increased by one year; and for class 6 felonies, the maximum of the presumptive range is increased by six months. Crimes that present an extraordinary risk of harm to society include:

- (1) first, second, and third degree sexual assault;
- (2) sexual assault on a child;
- (3) sexual assault on a child by one in a position of trust;
- (4) sexual assault on a client by a psychotherapist;
- (5) incest;
- (6) aggravated incest;
- (7) aggravated robbery;
- (8) child abuse;
- (9) unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance with the intent to sell, distribute, manufacture, or dispense; and
- (10) any crime of violence as defined in Section 16-11-309, C.R.S.

Table 9.2 compares the sentencing range for each of the special categories at various points in time. It should be noted that, because the special sentencing ranges are based on the presumptive range for each felony class, when the presumptive range is amended it directly affects the sentencing range for each special category. Also, none of the special categories affect class 1 felonies since the sentencing range for class 1 felonies is life to death.

**Table 9.2: History of Sentencing Ranges for Special Sentencing Categories**

	<b>Class 2 Felony</b>	<b>Class 3 Felony</b>	<b>Class 4 Felony</b>	<b>Class 5 Felony</b>	<b>Class 6 Felony</b>
<b>1979</b>					
Extraordinary Mitigating or Aggravating Circumstances	4 to 24 years	2 to 16 years	1 to 8 years	6 months to 4 years	NA
Crime of Violence	8-year minimum sentence for violent crimes	4-year minimum sentence for violent crimes	2-year minimum sentence for violent crimes	1-year minimum sentence for violent crimes	NA
<b>1981</b>					
Extraordinary Mitigating or Aggravating Circumstances	4 to 24 years	2 to 16 years	1 to 8 years	6 months to 4 years	NA
Extraordinary Aggravating Circumstances/Crime of Violence	12 to 24 years	8 to 16 years	4 to 8 years	2 to 4 years	NA
<b>1985</b>					
Extraordinary Mitigating or Aggravating Circumstances	4 to 48 years	2 to 32 years	1 to 16 years	6 months to 8 years	NA
Extraordinary Aggravating Circumstances/Crime of Violence	24 to 48 years	16 to 32 years	8 to 16 years	4 to 8 years	NA
<b>1988</b>					
Extraordinary Mitigating or Aggravating Circumstances	4 to 48 years	2 to 32 years	1 to 16 years	6 months to 8 years	NA
Extraordinary Aggravating Circumstances/Crime of Violence	16 to 48 years	10 to 32 years	5 to 16 years	2.5 to 8 years	NA
<b>1989</b>					
Extraordinary Mitigating or Aggravating Circumstances	4 to 48 years	2 to 32 years	1 to 16 years	6 months to 8 years	6 months to 4 years
Extraordinary Aggravating Circumstances/Crime of Violence	16 to 48 years	10 to 32 years	5 to 16 years	2.5 to 8 years	18 months to 4 years
<b>1990</b>					
Extraordinary Mitigating or Aggravating Circumstances	4 to 48 years	2 to 32 years	1 to 16 years	6 months to 8 years	6 months to 4 years
Extraordinary Aggravating Circumstances/Crime of Violence	16 to 48 years	10 to 32 years	5 to 16 years	2.5 to 8 years	18 months to 4 years
Sentence-Enhancing Circumstances	8 to 48 years	4 to 32 years	2 to 16 years	1 to 8 years	1 to 4 years
<b>1993 (not amended since 1993)</b>					
Extraordinary Mitigating or Aggravating Circumstances	4 to 48 years	2 to 24 years	1 to 12 years	6 months to 3 years	6 months to 3 years
Extraordinary Aggravating Circumstances/Crime of Violence	16 to 48 years	8 to 24 years	4 to 12 years	2 to 6 years	18 months to 3 years
Sentence-Enhancing Circumstances	8 to 48 years	4 to 24 years	2 to 12 years	1 to 6 years	1 to 3 years
Extraordinary Risk of Harm to Society	NA	4 to 16 years	2 to 8 years	1 to 4 years	1 to 2 years

NA: Not applicable. The class 6 felony classification did not exit until 1989, and the Extraordinary Risk of Harm to Society category does not apply to class 2 felonies.

## HABITUAL OFFENDER STATUTES (Section 16-13-101, C.R.S.)

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In 1979, the habitual offender statute provided two levels of punishment for habitual offenders, most commonly referred to as the "little habitual" and the "big habitual."

The "little habitual" offender statute provided that offenders *twice* previously convicted of a felony for which the maximum penalty exceeded five years, and who committed a third felony within ten years of the prior felony convictions, were adjudged habitual offenders and were to be sentenced to a term of 25 to 50 years. (This applied only to class 1, 2, and 3 felonies since the original sentence for these felonies was greater than five years.) Offenders who had been *three* times previously convicted of a felony were adjudged habitual offenders under the "big habitual" provisions that required a sentence of life imprisonment.

In 1981, the habitual offender statute was amended to clarify that, in order for an offender to be considered an habitual offender, the prior felony convictions must have resulted from separate episodes or incidents.

The habitual offender statute was not further amended until 1993 when the "little habitual" statute was extended to apply to offenders convicted of a class 1, class 2, class 3, class 4, or class 5 felony. (The "little habitual" category does not apply to class 6 felonies, a new felony class created in 1989.) Previous to 1993, as noted above, the "little habitual" statute applied to offenders convicted of *any* felony for which the maximum sentence exceeded five years. In effect, that provision did not apply to class 4 or 5 felonies prior to 1985 because the maximum sentences for those offenses were not more than five years. When the presumptive sentence ranges were amended in 1985, that provision applied to class 4 but not class 5 felonies. Pursuant to the 1993 amendment, the "five-year" sentence provision no longer applied and the statutes specifically noted which felony classes were affected.

In 1993, the sentence under the "little habitual" statute was amended to a term of three times the maximum of the presumptive range for the class of felony for which the offender was convicted. Also in 1993, the "big habitual" provisions were amended to provide that a person convicted under the provisions would be sentenced to a term of four times the maximum of the presumptive range for the class of felony for which the offender was convicted.

In addition, a third level of habitual offender was created. The "bigger habitual" offender provisions provided that a person previously convicted under the "big habitual" provisions and who was subsequently convicted of a felony which is a crime of violence would be sentenced to a term of life imprisonment. Under this life sentence, the offender is not be eligible for parole until serving at least 40 calendar years.

In 1994, the habitual offender statute was further amended. A new level of habitual offender was created — the “three strikes you’re out habitual.” The “three strikes you’re out habitual” provisions provide that an offender convicted of a class 1 or 2 felony or a class 3 felony that is a crime of violence, and who has twice previously been convicted of any of such class 1, class 2, or class 3 offenses is adjudged an habitual offender. The sentence for this level of habitual offender is life imprisonment with no parole eligibility for 40 years. The provisions for the “bigger habitual,” “big habitual,” and “little habitual” were not amended. Table 9.3 summarizes the sentencing range in existence each year that the statutes were amended.

**Table 9.3: Habitual Offender Sentencing Ranges**

	<b>Class 1 Felony</b>	<b>Class 2 Felony</b>	<b>Class 3 Felony</b>	<b>Class 4 Felony</b>	<b>Class 5 Felony</b>	<b>Class 6 Felony</b>
<b>1970</b>						
Little Habitual (3rd conviction)	25 to 50 years	25 to 50 years	25 to 50 years	NA	NA	NA
Big Habitual (4th conviction)	Life	Life	Life	Life	Life	NA
<b>1985</b>						
Little Habitual (3rd conviction)	25 to 50 years	25 to 50 years	25 to 50 years	25 to 50 years	NA	NA
Big Habitual (4th conviction)	Life	Life	Life	Life	Life	NA
<b>1993</b>						
Little Habitual (3rd conviction)	Life	72 years	36 years	18 years	9 years	NA
Big Habitual (4th conviction)	Life	96 years	48 years	24 years	12 years	6 years
Bigger Habitual (5th conviction)	Life	Life	Life	Life	Life	Life
<b>1994 (not amended since 1994)</b>						
Little Habitual (3rd conviction)	Life	72 years	36 years	18 years	9 years	NA
Big Habitual (4th conviction)	Life	96 years	48 years	24 years	12 years	6 years
Bigger Habitual (5th conviction)	Life	Life	Life	Life	Life	Life
“Three Strikes You’re Out” Habitual (3rd conviction of class 1, 2, or 3/violent felonies)	Life	Life	Life (only class 3 felonies which are crimes of violence)	NA	NA	NA

NA: Not applicable.



## **GOOD TIME AND EARNED TIME**

**(Title 17, Article 22.5, C.R.S.)**

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The statutes pertaining to good time and earned time have been amended by the legislature a number of times since 1979. Prior to 1990, good time and earned time were deducted from the offender's sentence only for the purpose of determining the parole eligibility date (PED). The time did not apply to the offender's discharge date. After 1990, earned time did apply to the offender's discharge date. The parole eligibility date is the date upon which the offender is eligible to be released to parole by the State Board of Parole.

**Good time.** In 1979, offenders were eligible for a good time deduction of 15 days per month from their sentence. The good time was granted if the offender's conduct indicated that all of the institution's rules and regulations were observed and any assigned duties were performed. The sentence reduction only pertained to the offender's parole eligibility date to determine when the offender would be eligible for parole. In essence, the offenders were eligible for parole after serving 50 percent of their sentence. The authorized good time vested quarterly and could not be withdrawn once it was vested. Further, no more than 45 days of good time could be withheld by the department in any one quarter.

The good time statutes were amended in 1981 to stipulate that good time be vested semi-annually rather than quarterly. Also, no more than 90 days could be withdrawn in any six-month period. The statutes were amended again in 1985 and specified that good time was not to vest for inmates sentenced after July 1, 1985, and good time could be withheld by the department. The application of good time was eliminated in 1990 when the new part 4 was added to title 17, article 22.5. This, in essence, was replaced in 1990 within parole statutes that provide that offenders are eligible for parole after serving 50 percent of their sentence.

**Earned time.** In addition to good time, offenders in 1979 were eligible for earned time, not to exceed 15 days for every six-month period (2.5 days per month). The time was to be deducted from the inmate's sentence and applied to the offender's parole eligibility date (PED). The time would be deducted upon a demonstration to the State Board of Parole that the inmate made substantial and consistent progress in each of the following areas:

- (a) work and training, including attendance, promptness, performance, cooperation, care of materials, and safety;
- (b) group living, including housekeeping, personal hygiene, cooperation, and social adjustment;

- (c) participation in counseling session and involvement in self-help groups;  
and
- (d) progress toward goals and programs established by the Colorado diagnostic program.

The parole board was to annually review the performance record of each inmate and grant an earned-time deduction. The earned time vested and, once granted, could not be withdrawn.

In 1984, the earned time statutes were amended to increase the amount that could be earned from 15 to 30 days for every six-month period (five days per month). For those offenders sentenced prior to July 1, 1985, the parole board was to annually review the performance of the offender and grant the earned time. Such earned time vested and could not be withdrawn. For inmates sentenced after July 1, 1985, the earned time did not vest and could be withdrawn by the department.

For offenders sentenced after July 1, 1987, the statutes were amended to stipulate that the department not credit an inmate with more than one-half of the allowable earned time for any six-month period unless the inmate was employed or was participating in institutional treatment or training programs.

Beginning July 1, 1988, inmates could earn an additional four days of earned time per month. The time could be earned by inmates who made positive progress in the newly created literacy corrections program. Upon review, the earned time could be withdrawn. The definition was further expanded in 1990 to include awarding four days of earned time monthly for participation in the correctional education program.

In 1990, an entire new part 4 was added to the parole eligibility statutes and the computation of earned time was amended. Beginning July 1, 1990, earned time, not to exceed ten days per month of incarceration or parole, could be deducted from the inmate's sentence. It should be noted that, beginning in 1990, earned time applied to the offender's discharge date. This means it actually reduced the sentence imposed by the court; whereas prior to 1990, it was only used to determine the parole eligibility date. However, the earned time may not reduce the sentence of any offender by more than 25 percent of the sentence.

Earned time statutes were again amended in 1992 to specify that earned time credit for participation in the correctional education program was to be awarded in the same manner as all other earned time amended pursuant to the new part 4. Reference to the literacy corrections program was eliminated.

In 1993, the statutes were amended to stipulate that no offender paroled for an offense committed on or after July 1, 1993, is eligible to receive any earned time while the offender is on parole or while the offender is reincarcerated after a revocation of the mandatory period of parole. However, in 1995, this provision was further amended to provide that offenders sentenced and paroled for a non-violent felony offense

committed on or after July 1, 1993, would be eligible to receive earned time while on parole, but would not be eligible for earned time after reincarceration for a violation of a condition of parole. For the purposes of this provision, "non-violent felony offense" was defined as a felony offense other than:

- a crime of violence as defined in Section 16-11-309 (2), C.R.S.;
- manslaughter;
- second degree burglary;
- robbery (theft from a person where force, threat, or intimidation is used);
- theft if the value involved is worth more than \$400;
- theft from a person where force, threat, or intimidation is not used; and
- any felony offense committed against a child.

### **PAROLE**

#### ***(Title 17, Article 22.5, C.R.S.)***

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The statutes regarding parole were recodified in 1979 in a new part 22.5 of title 17. As recodified, the statute provided that any person sentenced for a class 2, class 3, class 4, or class 5 felony committed on or after July 1, 1979, would be eligible for parole after serving the sentence less any earned time and any good time. A one-year "mandatory" period of parole supervision was also stipulated. Conditions of parole were established by the State Board of Parole, and offenders violating those conditions while on parole were returned to prison for six months. For second and subsequent revocations of parole, offenders were required to be reincarcerated, but were prohibited from serving more than one year under a combination of parole supervision and reincarceration. The statute also provided that good time would apply to periods of reincarceration for parole violations. The statutes did not address parole eligibility for life sentences.

In 1981, the provisions regarding reincarceration of parole violators were amended to provide that such offenders would return to prison for at least six months, but no more than two years, and that the period of reincarceration, combined with time served on parole and the sentence actually served, not exceed the original sentence imposed.

In 1984, article 22.5 of title 17 was repealed and reenacted and some of the parole statutes were amended. The State Board of Parole was directed to adopt risk assessment guidelines for use in determining whether an offender convicted of a class 2,

class 3, class 4, or class 5 felony may be suitable for release on parole on his or her parole eligibility date (with no supervision) or be subject to extended parole of up to three years. (The minimum one-year "mandatory" period of parole was eliminated and offenders convicted of a class 1 felony were ineligible for parole until serving 20 years of the sentence.) The maximum three-year period of parole was reserved for offenders whose score showed them to present a high risk to the general population upon parole release. The parole board continued to establish conditions of parole.

For offenders who violated the conditions of parole, the parole board was given authority to continue the parole, modify the conditions of parole, or revoke the parole for a period of not more than five years. The statute continued to provide that the period of reincarceration, combined with time served on parole, and the sentence actually served, not exceed the original sentence imposed. Good time continued to apply to periods of reincarceration.

In 1985, the parole statutes were amended to allow for up to five years of parole supervision. In addition, the parole board was directed to reconsider applications for parole that were refused by the parole board within one year and again each year thereafter until the person was either granted parole or had discharged the sentence. Also in 1985, the parole guidelines (which the parole board established in response to legislation adopted in 1984) were codified.

In 1987, the parole statutes were amended to provide that certain violent offenders (felons convicted of murder, assault, kidnapping, sexual assault, arson, burglary, or aggravated robbery) who were previously convicted of a crime of violence would not be eligible for parole until 75 percent of the sentence was served less any authorized earned time. Offenders twice previously convicted of any of the above crimes of violence were ineligible for parole until serving the sentence less earned time.

In 1990, the parole statute was amended to provide that offenders convicted of the new category of class 6 felony would be eligible for parole (the class 6 felony was created in 1989, but the legislature neglected to allow parole for that class offender in 1989). In addition, a new part 4 was added to article 22.5 of title 17 that allowed offenders to be eligible for parole after serving 50 percent of the sentence less earned time (good time was abolished). The length of the period of parole was left to the discretion of the parole board. Offenders convicted of certain violent offenses (second degree murder, assault, kidnapping, sexual assault, arson, burglary, or aggravated robbery) were ineligible for parole until serving 75 percent of the sentence less earned time. The 75 percent provision also applied to offenders who were twice previously convicted of certain violent offenses, but if released on parole, the parole board was authorized to place the person on parole for a period of time equal to the remainder of the original sentence.

If conditions of parole were violated, the parole board could continue the parole, modify the conditions of parole, or revoke the parole and return the offender to prison. The period of reincarceration could be the remainder of the original sentence or one year, whichever was longer.

In 1993, House Bill 93-1302 changed parole provisions to require mandatory periods of parole as follows:

Class of Felony	Mandatory Parole
1	Offenders are not eligible for parole.
2	Five Years
3	Five Years
4	Three Years
5	Two Years
6	One Year

The law changes in 1993 required the parole board to set the mandatory periods of parole as outlined previously. The board is also required to reconsider parole applications of offenders whose parole is refused within one year of the refusal and each year thereafter until parole is granted or the sentence is discharged. Upon violation of the conditions of parole, the board is authorized to continue the parole, modify the conditions, or return the offender to prison. The period of reincarceration is the remainder of the offender's original sentence. Any offender reincarcerated due to a parole violation is eligible for parole at any time during such reincarceration.

In 1994, the parole statutes were amended to provide that offenders convicted of a class 1 or class 2 crime of violence, a class 3 sexual offense, an habitual criminal offense, or any offense subject to the indeterminate commitment requirements for sex offenders, have their applications for parole reviewed once every three years, rather than annually.

In 1995, House Bill 95-1087 changed the statutes to allow for an offender sentenced for a non-violent felony offense to accrue earned time while on parole.

### **Effects of Recent Changes in Parole Provisions**

Many inmates sentenced under the mandatory parole provisions of laws prior to House Bill 93-1302 served their entire sentences in prison and are thus discharged from the Department of Corrections (DOC) without parole supervision. In FY 1994-95, 30 percent of releases were sentence discharges. For those inmates released to parole, the average length of stay on parole is roughly 13 months. Thus, House Bill 93-1302 will increase both releases to parole and lengths of stay on parole.

Table 9.4 and Graph 9.1 show the parole population between 1993 and the present, the projected growth in the parole population, and the estimated growth in the parole population had mandatory parole not been implemented. We estimate that, in the absence of mandatory parole, the parole population would rise gradually to nearly 2,800 by July 1, 2002. Because of mandatory parole provisions, we project the parole population to reach 6,300 by that date, a 3,500 difference.

These estimates also take into account the effects of House Bill 95-1087, which allowed some non-violent offenders to receive earned time while on mandatory parole. We estimate House Bill 95-1087 will reduce the parole population by approximately ten percent, or 700 parolees, from what it otherwise would have been by July 1, 2002, (approximately 7,000) had parole earned time provisions not been implemented.

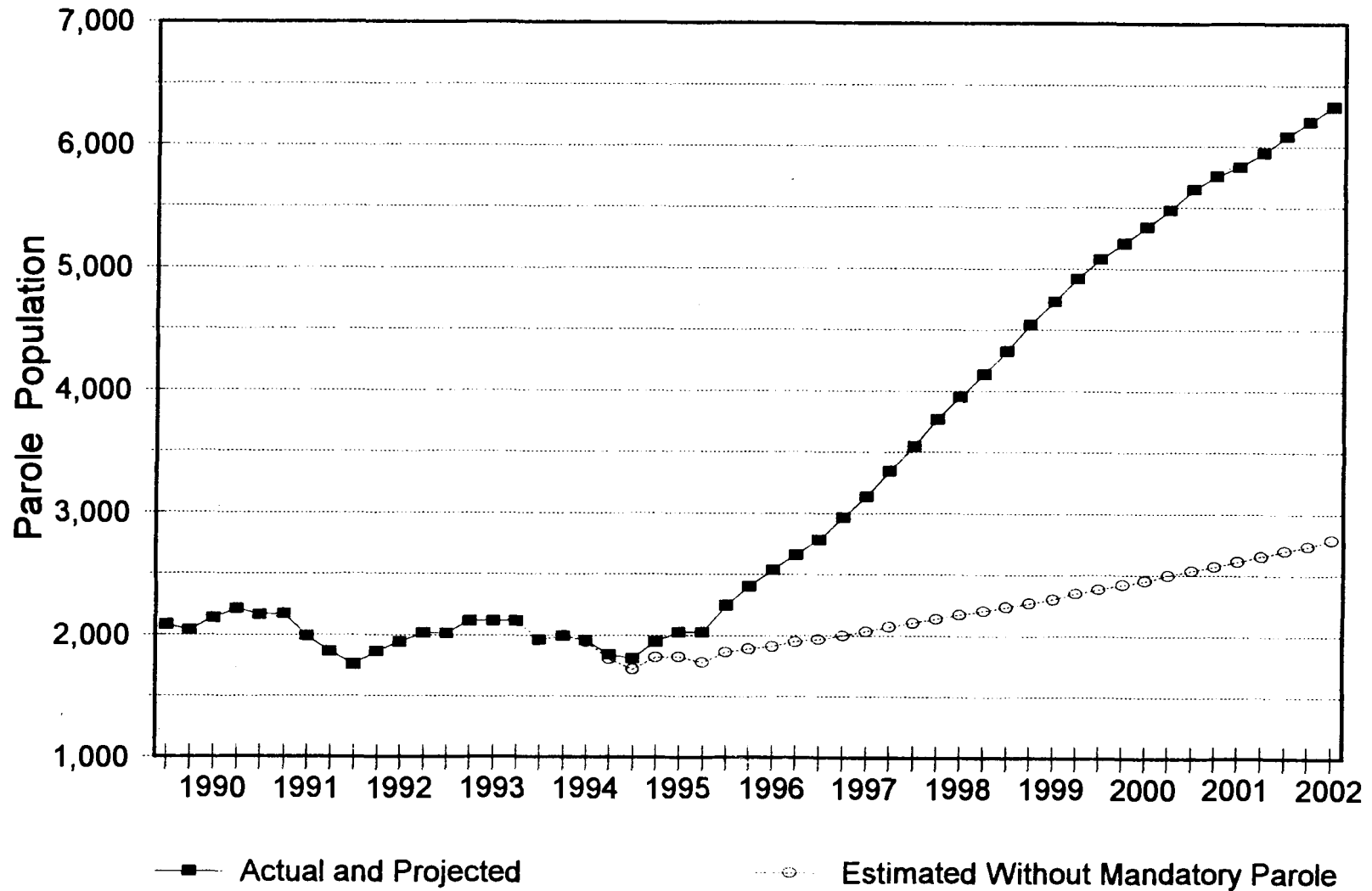
**Table 9.4: The Impact of Mandatory Parole Provisions on the Parole Population**

Date	Actual and Projected Parole Population		Difference
	Estimated Parole Population With Mandatory Parole	Estimated Parole Population Without Mandatory Parole	
October 1, 1993	2,119	2,119	0
January 1, 1994	1,963	1,963	0
April 1, 1994	1,995	1,995	0
July 1, 1994	1,958	1,947	11
October 1, 1994	1,840	1,805	35
January 1, 1995	1,810	1,724	86
April 1, 1995	1,945	1,817	128
July 1, 1995	2,026	1,823	203
October 1, 1995	2,024	1,777	247
January 1, 1996	2,246	1,865	381
April 1, 1996	2,404	1,891	513
July 1, 1996	2,537	1,912	625
October 1, 1996	2,662	1,945	717
January 1, 1997	2,785	1,966	819
April 1, 1997	2,966	1,999	967
July 1, 1997	3,136	2,034	1,102
October 1, 1997	3,344	2,071	1,273
January 1, 1998	3,549	2,103	1,446
April 1, 1998	3,768	2,135	1,633
July 1, 1998	3,953	2,171	1,782
October 1, 1998	4,134	2,203	1,931
January 1, 1999	4,325	2,237	2,088
April 1, 1999	4,538	2,268	2,270
July 1, 1999	4,727	2,299	2,428
October 1, 1999	4,916	2,345	2,571

**Table 9.4 (continued)**

<b>Date</b>	<b>Actual and Projected Parole Population</b>		<b>Difference</b>
	<b>Estimated Parole Population With Mandatory Parole</b>	<b>Estimated Parole Population Without Mandatory Parole</b>	
January 1, 2000	5,076	2,384	2,692
April 1, 2000	5,205	2,421	2,784
July 1, 2000	5,341	2,454	2,887
October 1, 2000	5,478	2,498	2,980
January 1, 2001	5,647	2,535	3,112
April 1, 2001	5,758	2,574	3,184
July 1, 2001	5,833	2,615	3,218
October 1, 2001	5,949	2,656	3,293
January 1, 2002	6,084	2,699	3,385
April 1, 2002	6,202	2,737	3,465
July 1, 2002	6,325	2,787	3,538

### Graph 9.1: The Effect of Mandatory Parole on the Projected Parole Population

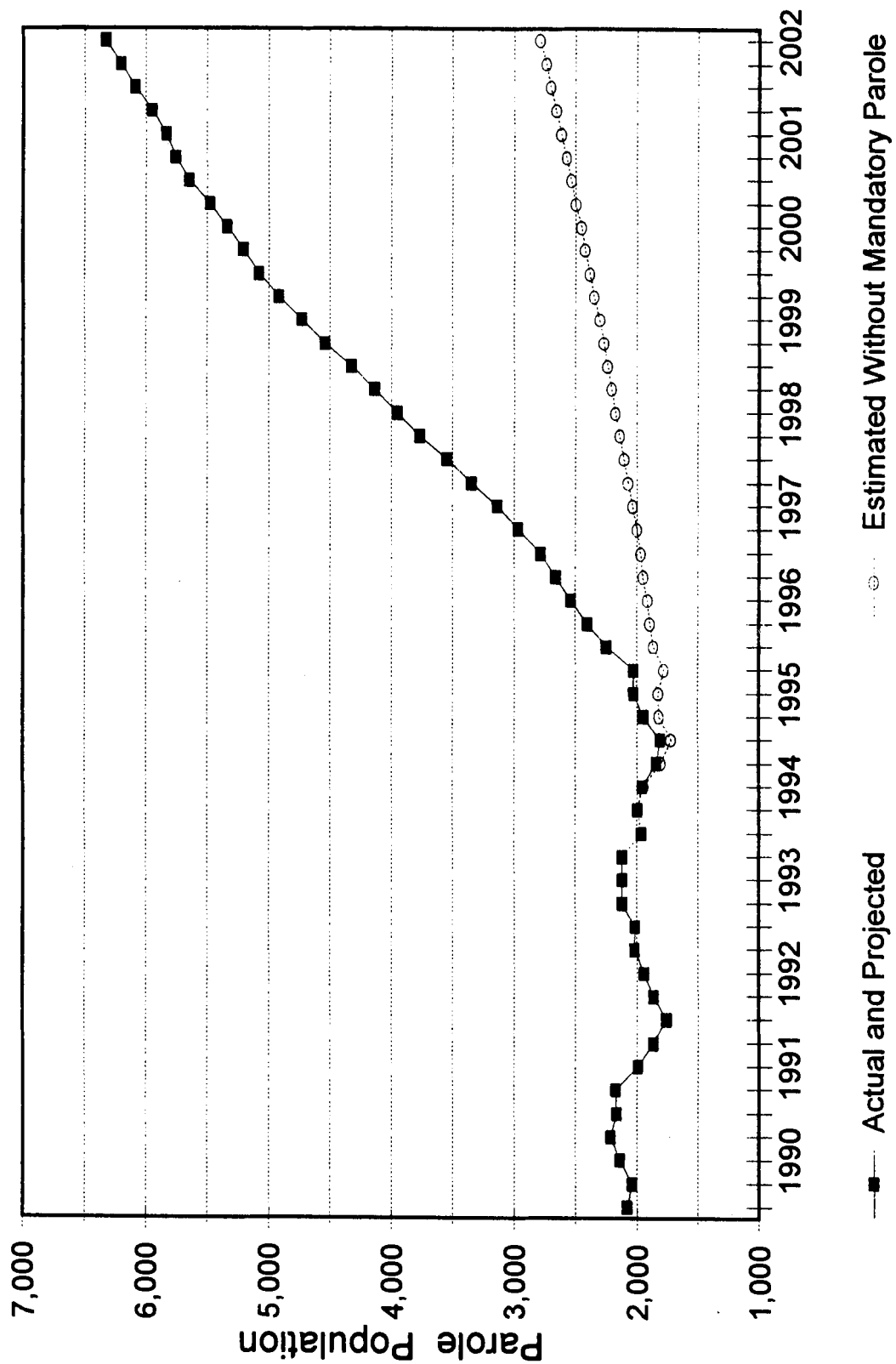




**Table 9.4 (continued)**

<b>Date</b>	<b>Actual and Projected Parole Population</b>		<b>Difference</b>
	<b>Estimated Parole Population With Mandatory Parole</b>	<b>Estimated Parole Population Without Mandatory Parole</b>	
January 1, 2000	5,076	2,384	2,692
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January 1, 2002	6,084	2,699	3,385
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July 1, 2002	6,325	2,787	3,538

**Graph 9.1: The Effect of Mandatory Parole on the  
Projected Parole Population**



February 1996

February 1996

## SENTENCING LAW AS OF JULY 1, 1995

## — NOTES —

<b>Little Habitual</b>	An offender is adjudged an habitual offender if the offender has been convicted <i>twice</i> previously of a felony in Colorado or any other state. The convictions must result from separate episodes and must have occurred <i>within</i> ten years of the commission of the new offense. The sentence for the habitual offender is a term of three times the maximum of the presumptive range.
<b>Big Habitual</b>	An offender convicted of a felony who has been convicted <i>three times</i> previously of a felony (arising from separate incidents) in this state or any other state, is adjudged an habitual criminal. Such person shall be punished for a term of four times the maximum of the presumptive range.
<b>Bigger Habitual</b>	An offender previously adjudged an habitual offender under the "big habitual" provisions, and who is subsequently convicted of a felony which is a crime of violence, is sentenced to a term of life imprisonment and is not eligible for parole until serving at least 40 years.
<b>3 Strikes and You're Out Habitual</b>	An offender convicted of a class 1 or class 2 felony or a class 3 felony which is a crime of violence, and who has twice previously been convicted of a class 1 or class 2 felony or a class 3 felony which is a crime of violence, is adjudged an habitual offender. The sentence for this level of habitual offender is life imprisonment with no parole <i>eligibility</i> for 40 years.
<b>Special Parole Guidelines</b>	<ol style="list-style-type: none"> <li>1) If an offender is sentenced consecutively for two or more offenses, the mandatory period of parole for the highest felony offense will be imposed.</li> <li>2) Any person convicted of offenses under Title 18, Article 3, Part 4 (Unlawful Sexual Behavior) or Title 18, Article 6, Part 3 (Incest) is subject to five years of mandatory parole.</li> <li>3) Persons convicted of sexual assault under Section 18-3-402(3), C.R.S., are required to participate in mental health counseling as a condition of parole.</li> </ol>
<b>Extraordinary Aggravating Circumstances</b>	<p>The presence of any one or more of the following qualify as extraordinary aggravating circumstances. The defendant: 1) committed a crime of violence under Section 16-11-309, C.R.S.; 2) was on parole or probation for another felony at the time of the crime; 3) was on appeal bond; 4) was under deferred judgment; 5) committed class 2 or class 3 felony child abuse; 6) committed class 2 felony sexual assault in the first degree; or 7) other circumstances that the court may decide.</p> <p>Offenders sentenced under Section 16-11-309, C.R.S., violent crimes, are to be sentenced for an additional five years if they used a dangerous weapon or semiautomatic assault weapon. Crime of violence means a crime in which the defendant used, or possessed and threatened the use of, a deadly weapon during the commission or attempted commission of any crime committed against an elderly or handicapped person or at-risk adult or a crime of murder, 1st or 2nd degree assault, kidnapping, sexual assault, robbery, 1st degree arson, 1st or 2nd degree burglary, escape or criminal extortion, or during the immediate flight therefrom, or the defendant caused serious bodily injury or death to any person, other than himself or another participant, during the commission or attempted commission of any such felony or during the immediate flight therefrom.</p>
<b>Sentence-Enhancing Circumstances</b>	The presence of any one of the following circumstances qualifies as sentence enhancing: 1) the defendant was charged with or was on bond for a previous felony at the time the felony was committed, for which previous felony the defendant was subsequently convicted; 2) at the time the felony was committed, the defendant was on bond for having pled guilty to a lesser offense when the original offense charged was a felony; 3) the defendant was under a deferred judgment and sentence for another felony at the time the felony was committed; or 4) at the time the felony was committed, the defendant was on parole for having been adjudicated a delinquent child for an offense which would constitute a felony if committed by an adult.
<b>Extraordinary Risk of Harm to Society</b>	Crimes that present an extraordinary risk of harm to society include: 1) 1st degree sexual assault; 2) 2nd degree sexual assault; 3) 3rd degree sexual assault; 4) sexual assault on a child; 5) sexual assault on a child by one in a position of trust; 6) sexual assault on a client by a psychotherapist; 7) incest; 8) aggravated incest; 9) aggravated robbery; 10) child abuse; 11) unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance with the intent to sell, distribute, manufacture, or dispense; or 12) any crime of violence as defined in Section 16-11-309, C.R.S.

Sentencing Law as of July 1, 1995, Prepared by Legislative Council Staff.

February 1996

## SENTENCING LAW AS OF JULY 1, 1995

## — NOTES —

<b>Parole Eligibility</b> (17-22.5-303)	<p>Any person sentenced for a class 2, 3, 4, 5, or 6 felony for the purposes of parole eligibility, or any unclassified felony is eligible for parole after serving 50 percent of sentence less earned time. The Division of Adult Services shall determine the length of parole supervision. The conditions and length of parole are established by the Parole Board. If parole is not granted, reconsideration by the Parole Board must be conducted within one year and every year thereafter. Except that, if the person applying for parole was convicted of a class 1 or class 2 crime of violence (16-11-309) any class 3 sexual assault in 18-3-401 et. seq., an habitual criminal offense (16-12-101 (2.5)), or any of the offenses subject to the requirements of Section 16-13-203, C.R.S., the Parole Board need only consider granting parole once every three years. If the conditions of parole have been violated, the offender may be returned to prison for any period of time up to the period remaining on such person's sentence until the discharge date, or one year, whichever is longer. In computing the period of reincarceration for an offender other than an offender convicted of a non-violent felony offense (amended 1995), the time between the offender's release on parole and revocation of the parole is not considered to be any part of the term of sentence. No inmate imprisoned under a life sentence for a crime committed on or after July 1, 1990, is eligible for parole.</p> <p>Persons sentenced for 2nd degree murder, 1st degree assault, 1st degree kidnapping (except class 1 felony), 1st or 2nd degree sexual assault, 1st degree arson, 1st degree burglary, or aggravated robbery, who have previously been convicted for a crime of violence (16-11-309) are eligible for parole after serving 75 percent of the sentence, less earned time. Any person sentenced for a crime previously noted, who has twice been convicted of a crime of violence, is eligible for parole after serving 75 percent of the sentence. The offender will be referred to the State Board of Parole which may place the offender on parole for a period of time which does not exceed the time remaining on such person's original sentence. Persons sentenced as a big habitual offender for a crime of violence (16-11-309) are not eligible for parole until serving at least 40 calendar years.</p>
<b>Earned Time</b> (Title 17, Section 22.5)	<p>Earned time, not to exceed ten days for each month of incarceration, may be deducted from an inmate's sentence upon a demonstration that the inmate has made substantial progress with regard to: 1) work and training; 2) group living; 3) participation in counseling sessions; 4) progress toward goals; 5) compliance with conditions of parole release; 6) not harassing victims; and 7) progress in the correctional education program. Offenders sentenced and paroled for a non-violent felony offense committed on or after July 1, 1993 are eligible to receive earned time while on parole but are not eligible to receive earned time after reincarceration for a violation of a condition of parole.</p> <p>Earned time may not reduce the sentence of any inmate by a period of time that is more than 25 percent of the sentence.</p>
<b>Good Time</b> (Title 17, Section 22.5)	The concept was eliminated for most DOC inmates in 1990.
<b>Mandatory Sentence</b>	In 1993, a provision was added (18-1-105(10)) that specified that the court does not have the power to suspend a sentence to term of incarceration when the defendant is sentenced pursuant to a mandatory sentencing provision.

N/A: Not Applicable.

Bold type indicates amendments to sentencing laws in 1995

Sentencing Law as of July 1, 1995, Prepared by Legislative Council Staff.

## SENTENCING LAW AS OF JULY 1, 1985

Felony Class	Minimum Sentence (18-1-105)	Maximum Sentence (18-1-105)	Extraordinary Aggravating Circumstances (18-1-105(8))	Extraordinary Aggravating Circumstances (18-1-105(9)) Crime of Violence (18-1-309)	Extraordinary Risk of Harm to Society (Added in 1993)	Sentence-Enhancing Circumstances (Added in 1990)	Mandatory Period of Parole (Effective in 1979-83 and 1993 forward.)	Parole Eligibility (Title 17, Section 22.5)	Little Habitual Offender (18-13-101)	Big Habitual Offender (18-13-101)
1	Life	Death	NA	NA	NA	NA	NA	For life sentences: no inmate is eligible for parole until serving 20 40 calendar years. (Amended 1985)	25 to 50 years	Life
2	8 years	24 years (Amended 1985)	4 to 48 years (Amended 1985)	24 to 48 years (Amended 1985)	NA	NA	NA	Inmates are eligible for parole after serving the sentence less any good time or earned time. Based on standard presumptive range and receiving all possible time, the PED (parole eligibility date) would range from 3.4 years to 10.3 years. (Amended 1985)	25 to 50 years	Life
3	4 years	16 years (Amended 1985)	2 to 32 years (Amended 1985)	16 to 32 years (Amended 1985)	NA	NA	NA	Inmates are eligible for parole after serving the sentence less any good time or earned time. Based on standard presumptive range and receiving all possible time, the PED would range from 1.7 years to 6.9 years. (Amended 1985)	25 to 50 years	Life
4	2 years	8 years (Amended 1985)	1 to 16 years (Amended 1985)	8 to 16 years (Amended 1985)	NA	NA	NA	Inmates are eligible for parole after serving their sentence less any good time or earned time. Based on standard presumptive range and receiving all possible time, the PED would range from 10.3 months to 3.4 years. (Amended 1985)	NA	Life
5	1 year	4 years (Amended 1985)	6 months to 8 years (Amended 1985)	4 to 8 years (Amended 1985)	NA	NA	NA	Inmates are eligible for parole after serving their sentence less any good time or earned time. Based on standard presumptive range and receiving all possible time, the PED would range from 5.2 months to 1.7 years. (Amended 1985)	NA	Life
6	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

NA: Not Applicable.

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November 1994

## SENTENCING LAW AS OF JULY 1, 1985

## — NOTES —

Little Habitual	A person is considered an habitual offender if such person has been convicted <i>twice</i> previously of a felony, for which the maximum penalty prescribed by law exceeds five years, in Colorado or any other state. The convictions must result from separate episodes and must have occurred within ten years of commission of the new offense. The sentence for the habitual offender is a term of 25 to 50 years.
Big Habitual	Every person convicted of felony who has been convicted <i>three times</i> previously of a felony (arising from separate incidents) in this state or any other state, shall be adjudged an habitual criminal. Such person shall be punished for a term of his or her natural life.
Special Parole Guidelines	NA
Extraordinary Aggravating Circumstances	The presence of any one or more of the following circumstances qualify as extraordinary aggravating circumstances: 1) crime of violence, Section 16-11-309, C.R.S.; 2) defendant was on parole for another felony at the time of the commission of the felony; 3) defendant was on probation for another felony at the time of the commission of the felony; 4) defendant was charged with or was on bond for a previous felony, for which previous felony the defendant was subsequently convicted; or 5) the defendant was under confinement in prison or any correctional institution within the state.  With regard to crimes of violence, 90 days after being placed with the Department of Corrections, the Department shall submit a report to the court on the evaluation and diagnosis of the violent offender. The sentence may be modified for unusual and extenuating circumstances and the modification may include probation.
Sentence-Enhancing Circumstances	NA
Extraordinary Risk of Harm to Society	NA
Parole Eligibility	Any person sentenced for a class 2, 3, 4, or 5 felony is eligible for parole after serving the sentence less good time and earned time. For persons paroled, the Division of Adult Services shall provide up to <del>three</del> five (amended 1985) years of parole supervision, as determined by the Parole Board. The conditions are to be established by the Parole Board. If parole is not granted, reconsideration by the Parole Board is to be conducted within one year and every year thereafter (except if there is less than one year left of the sentence). If the conditions of parole have been violated, the offender may be returned to prison for a period of not more than five years. In no event shall any period of reincarceration, subsequent term of parole, and sentence actually exceed the sentence imposed. Good time applies to periods of reincarceration.
Earned Time	In addition to the good time authorized, earned time, not to exceed 30 days for every six months of incarceration, may be deducted from an inmate's sentence upon a demonstration that the inmate has made substantial progress with regard to: 1) work and training; 2) group living; 3) participation in counseling sessions; and 4) progress toward goals. The State Board of Parole is to review the performance record of each inmate annually. The earned time shall vest semi-annually upon being granted by the Board and may not be withdrawn. No more than 90 days of good time may be withheld by the Department in a six-month period.
Good Time	Offenders who perform the duties assigned to them shall be eligible for good time deductions of 15 days a month from their sentence. The good time shall not (amended 1985) vest and may not (amended 1985) be withdrawn.

NA: Not Applicable.

Bold type indicates amendments to the law in 1985, whereas strikeout type denotes deletions

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## SENTENCING LAW AS OF JULY 1, 1979

Felony Class	Minimum Sentence (18-1-105)	Maximum Sentence (18-1-105)	Extraordinary Mitigating or Aggravating Circumstances (18-1-105(9))	Extraordinary Aggravating Circumstances (18-1-105(9)) Crime of Violence (16-11-309)	Extraordinary Risk of Harm to Society (Added in 1983)	Sentence-Enhancing Circumstances (Added in 1990)	Mandatory Period of Parole	Discharge Date/Parole Eligibility (Title 17, Section 22.5)	Little Habitual Offender (18-13-101)	Big Habitual Offender (18-13-101)
1	Life	Death	NA	NA	NA	NA	NA	Statutes provided for a life sentence and did not refer to parole eligibility.	25 to 50 years	Life
2	8 years	12 years	4 to 24 years	8-year minimum sentence for violent crimes	NA	NA	1 year	Inmates are eligible for parole after serving the sentence less any good time or earned time. Based on standard presumptive range and receiving all possible time, the PED (parole eligibility date) would range from 3.7 years to 5.54 years.	25 to 50 years	Life
3	4 years	8 years	2 to 16 years	4-year minimum sentence for violent crimes	NA	NA	1 year	Inmates are eligible for parole after serving the sentence less any good time or earned time. Based on standard presumptive range and receiving all possible time, the PED would range from 1.85 years to 3.7 years.	25 to 50 years	Life
4	2 years	4 years	1 to 8 years	2-year minimum sentence for violent crimes	NA	NA	1 year	Inmates are eligible for parole after serving their sentence less any good time or earned time. Based on standard presumptive range and receiving all possible time, the PED would range from 11.09 months to 1.85 years.	NA	Life
5	1 year	2 years	6 months to 4 years	1-year minimum sentence for violent crimes	NA	NA	1 year	Inmates are eligible for parole after serving their sentence less any good time or earned time. Based on standard presumptive range and receiving all possible time, the PED would range from 5.54 months to 11.09 months.	NA	Life
6	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

NA Not Applicable.

Sentencing Law as of July 1, 1979, Prepared by Legislative Council Staff.



November 1994

## SENTENCING LAW AS OF JULY 1, 1979

## — NOTES —

Little Habitual	A person is considered an habitual offender if such person has been convicted <i>twice</i> previously of a felony, for which the maximum penalty prescribed by law exceeds five years, in Colorado or any other state. The convictions must have occurred <i>within</i> ten years of commission of the new offense. The sentence for the habitual offender is a term of 25 to 50 years.
Big Habitual	Every person convicted of felony who has been convicted <i>three times</i> previously of a felony in this state or any other state, shall be adjudged an habitual criminal. Such person shall be punished for a term of his or her natural life.
Special Parole Guidelines	NA
Extraordinary Aggravating Circumstances	NA
Sentence-Enhancing Circumstances	NA
Extraordinary Risk of Harm to Society	NA
Parole Eligibility	Any person sentenced for a class 2, 3, 4, or 5 felony is eligible for parole after serving the sentence less good time and earned time. For persons paroled, the Division of Adult Services shall provide a one-year period of parole supervision. The conditions are to be established by the Parole Board. If parole is not granted, reconsideration by the Parole Board is to be conducted <i>within</i> one year and every year thereafter. If the conditions of parole have been violated, the offender may be returned to prison for a period of six months. For second and subsequent offenses, that offender is to be reincarcerated, but in no event shall any person spend more than one year under parole supervision and reincarceration. Good time deductions apply to periods of reincarceration.
Earned Time	In addition to the good time authorized, earned time, not to exceed 15 days for every six months of incarceration, may be deducted from an inmate's sentence upon a demonstration that the inmate has made substantial progress with regard to: 1) work and training; 2) group living; 3) participation in counseling sessions; and 4) progress toward goals. The State Board of Parole is to review the performance record of each inmate annually. The earned time shall vest upon being granted by the Board and may not be withdrawn.
Good Time	Offenders who perform the duties assigned to them shall be eligible for good time deductions of 15 days a months from their sentence. The good time shall vest quarterly and may not be withdrawn once it has vested.

NA: Not Applicable.

Sentencing Law as of July 1, 1979, Prepared by Legislative Council Staff.

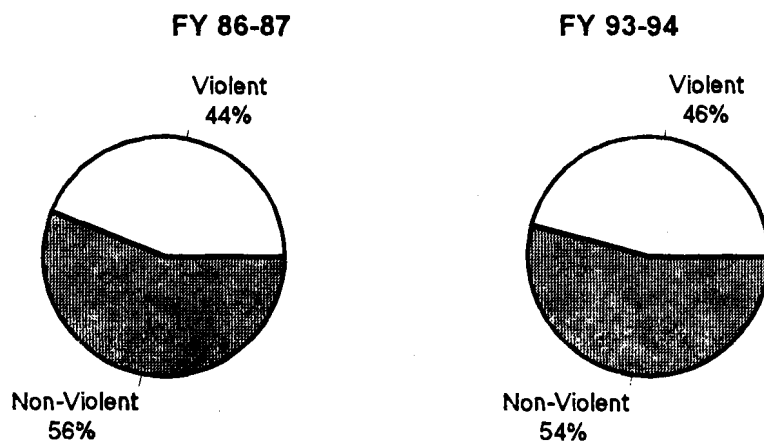
## **Chapter 10 — Incidence of Crime by Crime Type: Violent and Non-Violent**

This section analyzes the nature and changes in the incidence of crime from FY 1986-87 through FY 1993-94. Graphs in this section separately depict violent and non-violent crimes for both new commitments and the prison population as a whole. New commitments grew at a 6.4 percent annualized pace during the period analyzed, largely because of strong growth in non-violent offenses, specifically drug offenses. The strongest growth category in violent new commitments was in assaults. Meanwhile, the doubling of sentences in 1985 led to a more dramatic increase in the inmate population than that exhibited by new commitments. The inmate population in the Department of Corrections grew at a 13.4 percent annualized pace between FY 1986-87 and FY 1993-94. Although both categories experienced strong growth, there was a stronger advance in non-violent than in violent inmates. Graph 10.1 shows that violent inmates comprised 46 percent of the prison population in FY 1993-94, compared with 44 percent in FY 1986-87. The largest category of violent inmates is in sexual assault. Meanwhile, 31 percent of new commitments in FY 1993-94 were convicted of a violent offense, compared with 34 percent in FY 1986-87.

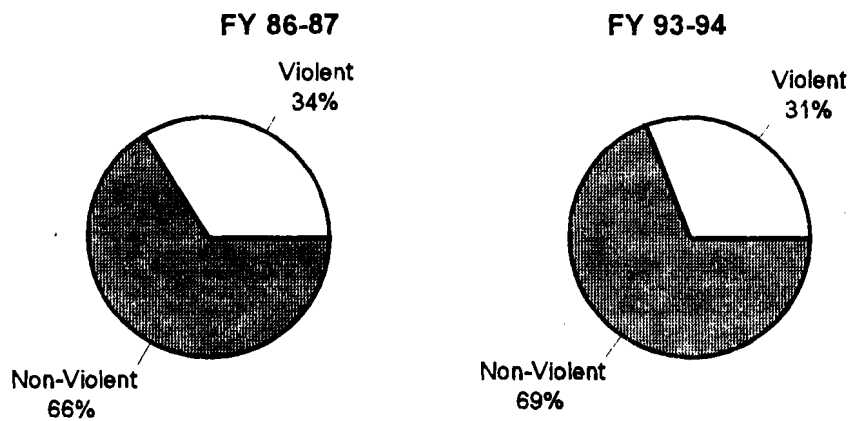
In terms of felony classification, class 4 crimes accounted for the largest share of new commitments in FY 1993-94, 35.6 percent, followed by class 5 felony crimes, 31.4 percent (Graph 10.2). There was a decrease in the share of class 4 felony new commitments since FY 1986-87 because of the creation of a new felony class 6 in 1989 and the shift of some class 4 crimes into class 5 and 6 crimes. Felons convicted of class 4 crimes accounted for 35.7 percent of the inmate population in FY 1993-94, versus 46.8 percent in FY 1986-87 (Graph 10.3). However, in contrast with the newly committed population, class 3 felons as a proportion of the inmate population grew significantly since FY 1986-87, accounting for 29.4 percent of inmates in FY 1993-94, compared with half of that proportion in FY 1986-87. Class 1 and 2 felonies also experienced a more than doubling of their shares of the inmate population. This is the result of the longer sentences instituted in 1985 filtering through the inmate population. These longer sentences have the largest effect on more serious felonies. More recently, in 1993, sentences were shortened for non-violent, non-drug crimes, thus accounting for the reduced proportions of class 5 and 6 felons in the inmate population.

**Graph 10.1**

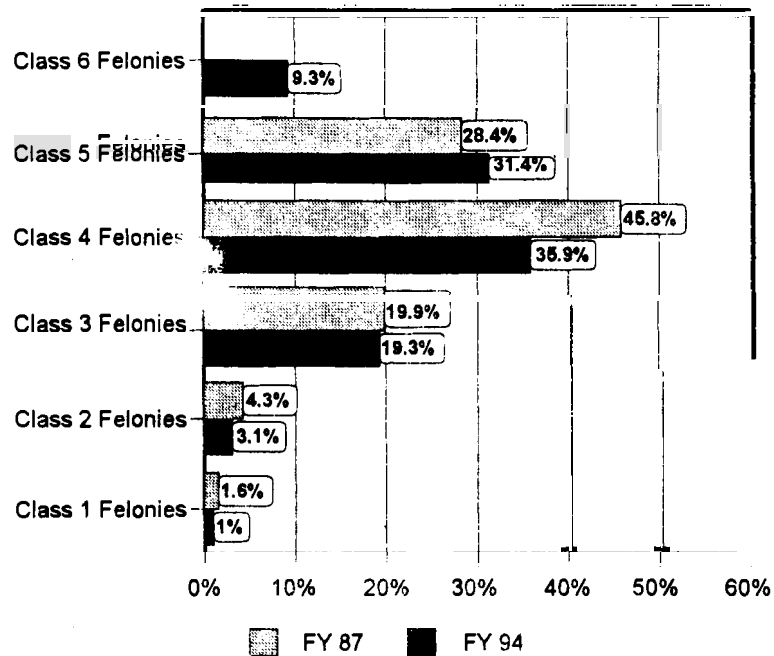
**Percentage of Inmates: Violent vs. Non-Violent**



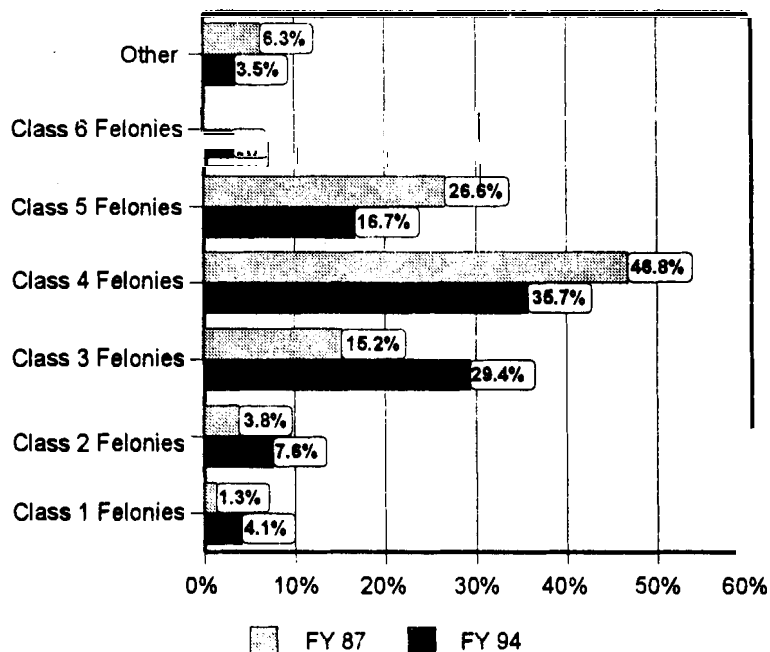
**Percentage of New Offenders Committed: Violent vs. Non-Violent**



**Graph 10.2: New Commitment Felony Class Distribution  
FY 87 and FY 94**



**Graph 10.3: Inmate Population Felony Class Distribution  
FY 87 and FY 94**



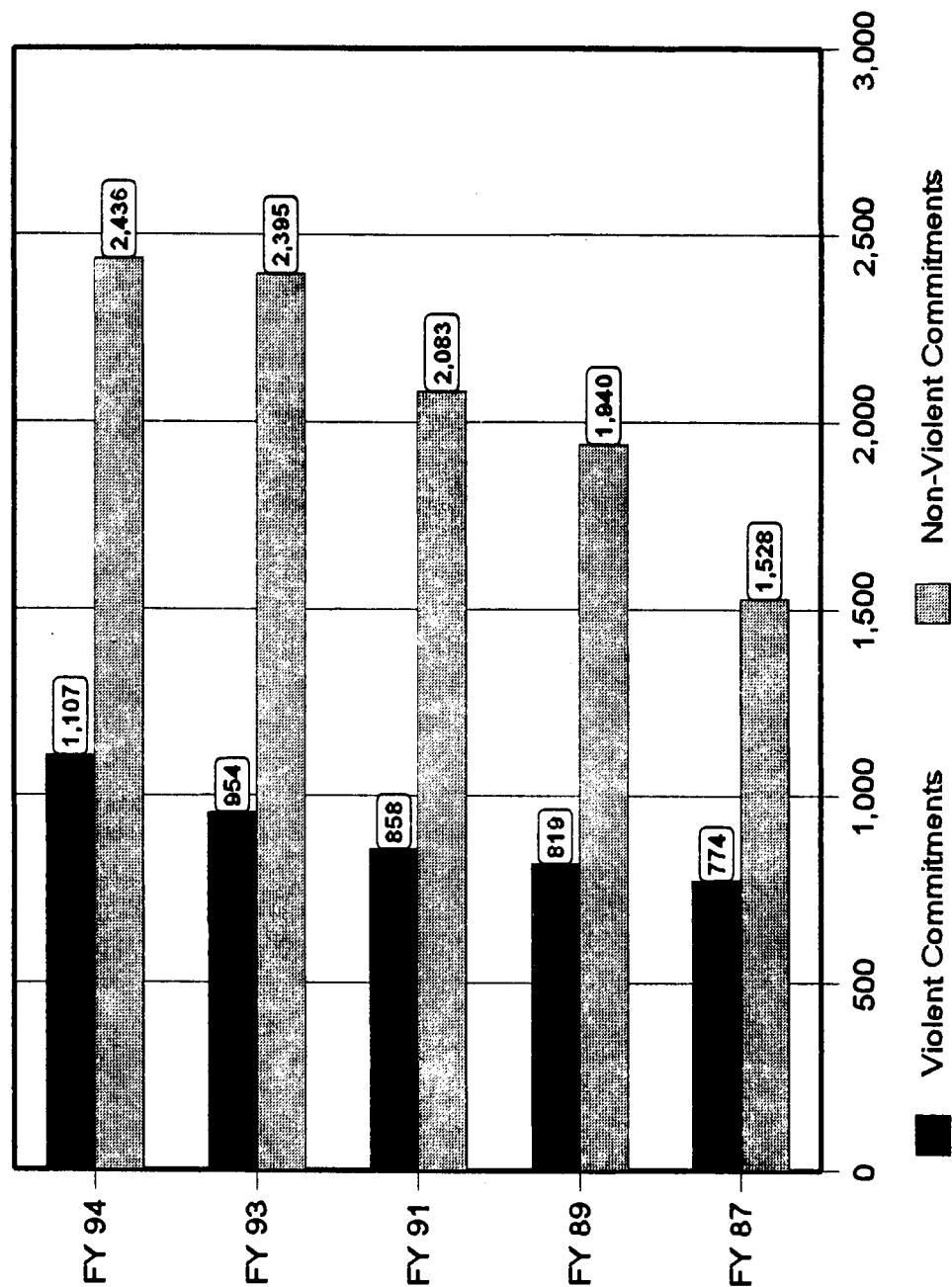
## NEW COMMITMENTS

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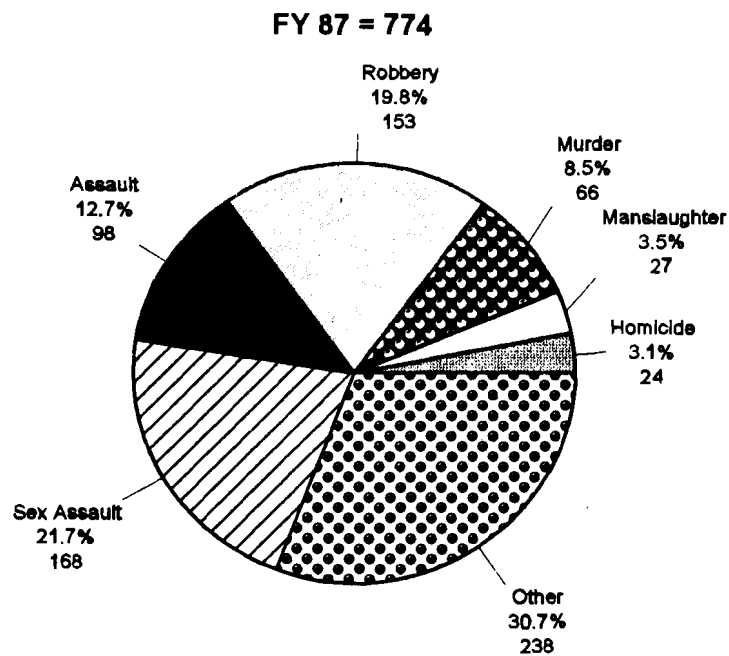
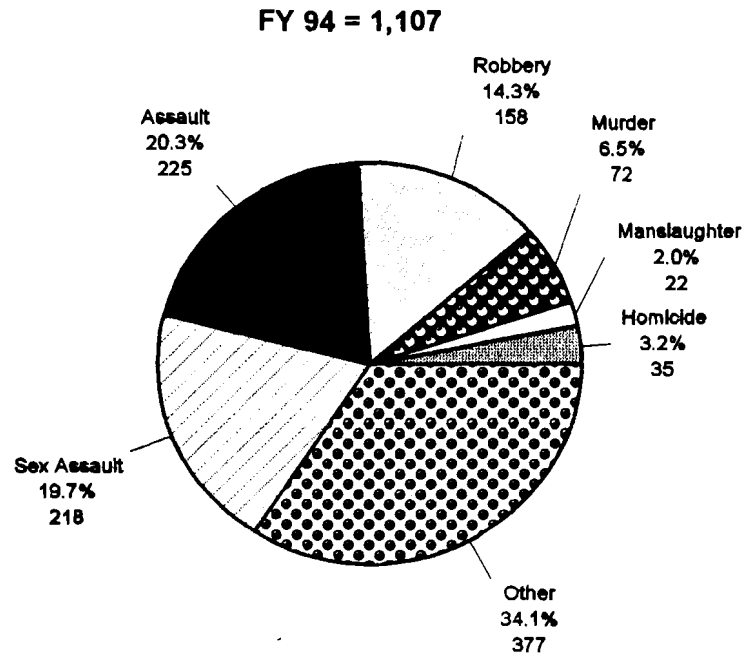
*New commitments for violent offenses.* Graphs 10.4, 10.5, and 10.6 illustrate the changes in the nature of violent offenders committed to DOC facilities between FY 1986-87 and FY 1993-94. The overall number of new commitments for violent offenses grew 43.0 percent, or at a 5.2 percent compound annual growth rate between FY 1986-87 and FY 1993-94. Consistent with last year's analysis, commitments for assaults showed the greatest increase, growing at a 12.6 percent annualized pace. In FY 1993-94, assaults accounted for 20.3 percent of new commitments versus 12.7 percent in FY 1986-87. Following assault, the "other" category which includes kidnapping, menacing, arson, weapons/explosives offenses, child abuse, attempt/conspiracy/accessory offenses and Sex Offender Act offenses, showed the second-strongest rate of growth at a 6.8 annual growth rate. In FY 1993-94, the "other" category accounted for 34.1 percent of all violent commitments versus 30.7 in FY 1986-87. The number of new commitments for manslaughter continued to decrease slightly. However, reversing the trend of recent years, the number of new commitments for homicide and murder increased significantly in FY 1993-94. The categories of assault, sexual assault, and "other" crimes accounted for nearly three-fourths of violent offenders committed in FY 1993-94.

*New commitments for non-violent offenses.* There was strong growth in new commitments for non-violent crimes, up 59.4 percent during the seven-year period analyzed (Graph 10.4). This represents a 6.9 percent annual growth rate. In FY 1993-94, however, the increase in non-violent new commitments tapered off to a 1.7 percent advance. Non-violent offenders accounted for 68.8 percent of new commitments during FY 1993-94, but comprised a smaller share (53.4 percent) of the inmate population because of their relatively shorter sentences. Graphs 10.7 and 10.8 depict the type of crimes committed by new non-violent felons between FY 1986-87 and FY 1993-94. Drug offenses represented the strongest growth in non-violent commitments between FY 1986-87 and FY 1993-94, growing at an 18.8 percent annual growth rate. Drug offenses now account for 25.0 percent of new non-violent commitments compared with 11.9 percent in FY 1986-87. Following drug offenses were traffic offenses, growing at a 16.0 annualized pace. Traffic offenses accounted for 2.7 percent of new commitments in FY 1986-87 versus 4.8 percent in FY 1993-94. Between FY 1992-93 and FY 1993-94, the number of commitments for the offenses of forgery/fraud, theft, burglary, and miscellaneous offenses decreased (Graph 10.8). The miscellaneous category includes attempt to commit a felony offense, conspiracy, accessory, mischief, court/corrections offenses, family crimes, escape/contraband, and habitual offenders. Drug offenses, miscellaneous crimes, and theft accounted for approximately two-thirds of all non-violent new commitments in FY 1993-94.

Graph 10.4: Comparison of Number of New Offenders Committed for Violent vs. Non-Violent Offenses



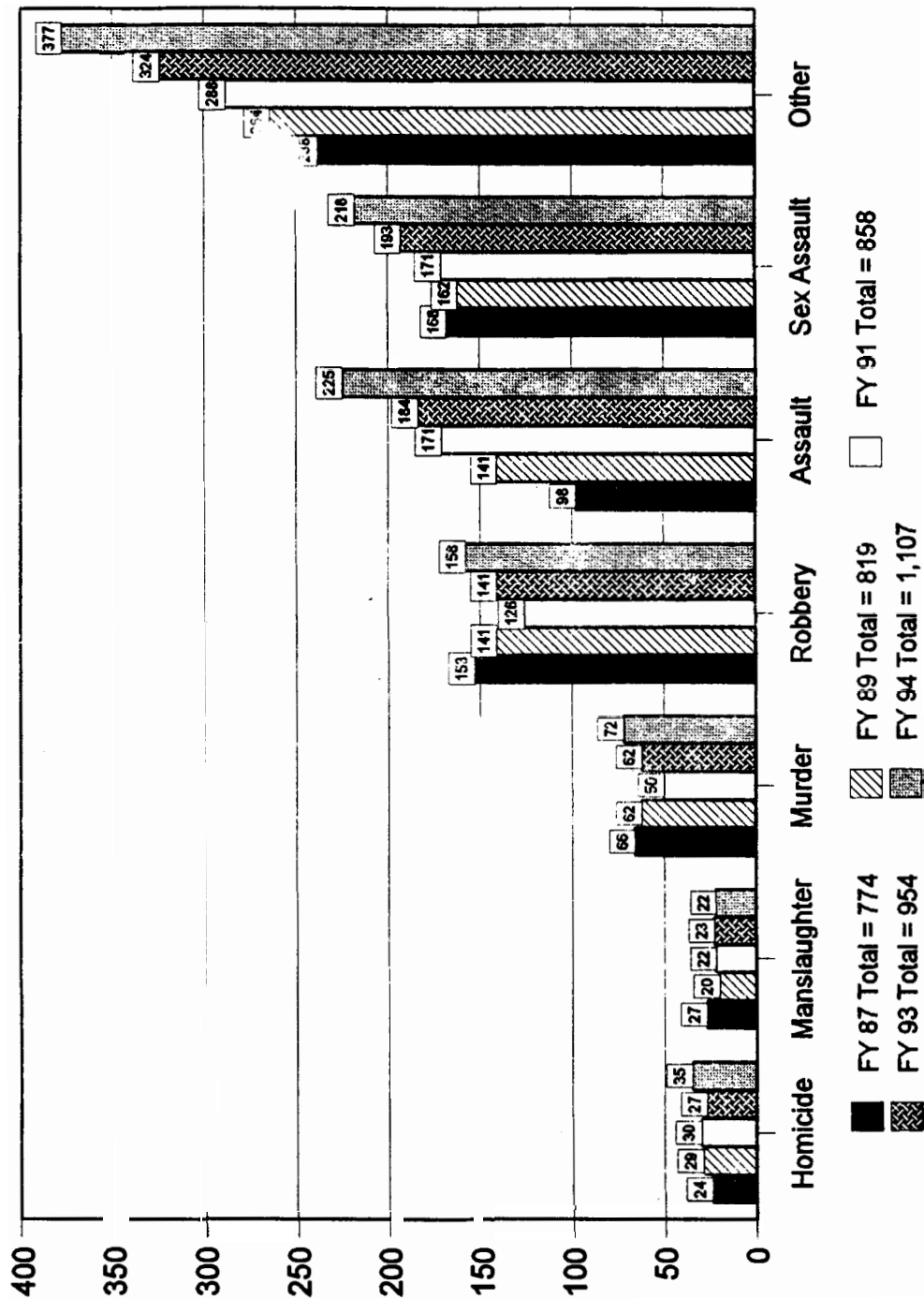
**Graph 10.5: Number of New Offenders Committed for Violent Offenses  
FY 87 and FY 94**



Other = kidnapping, menacing, arson, weapons/explosives offense, child abuse, and extortion.

Source: Department of Corrections.

**Graph 10.6: Number of New Offenders Committed for Violent Offenses  
FY 87 — FY 94**

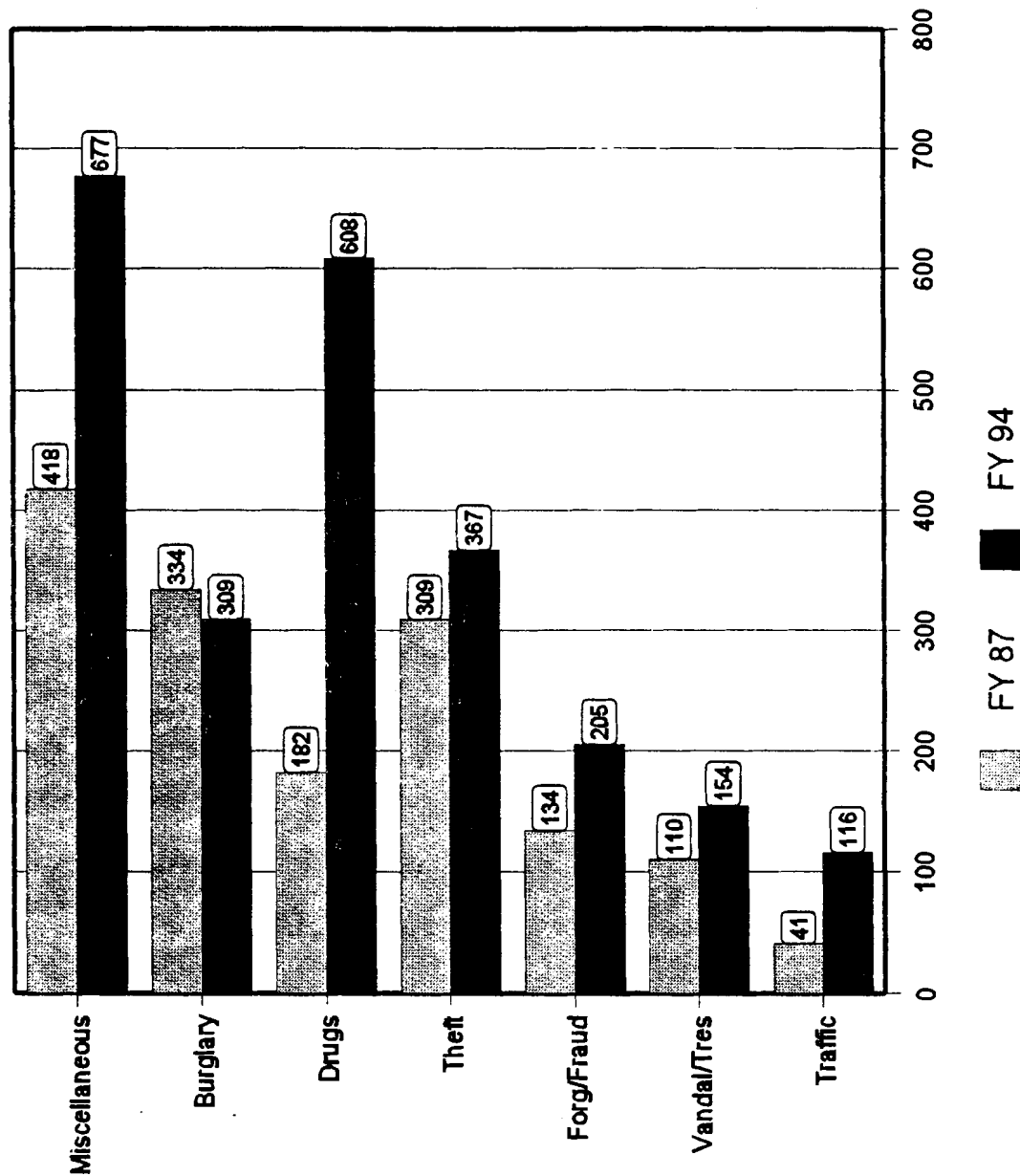


Other = kidnapping, menacing, arson, weapons/explosives offenses, child abuse, attempt/conspiracy/accessory, and Sex Offender Act offenses.

Source: Department of Corrections.



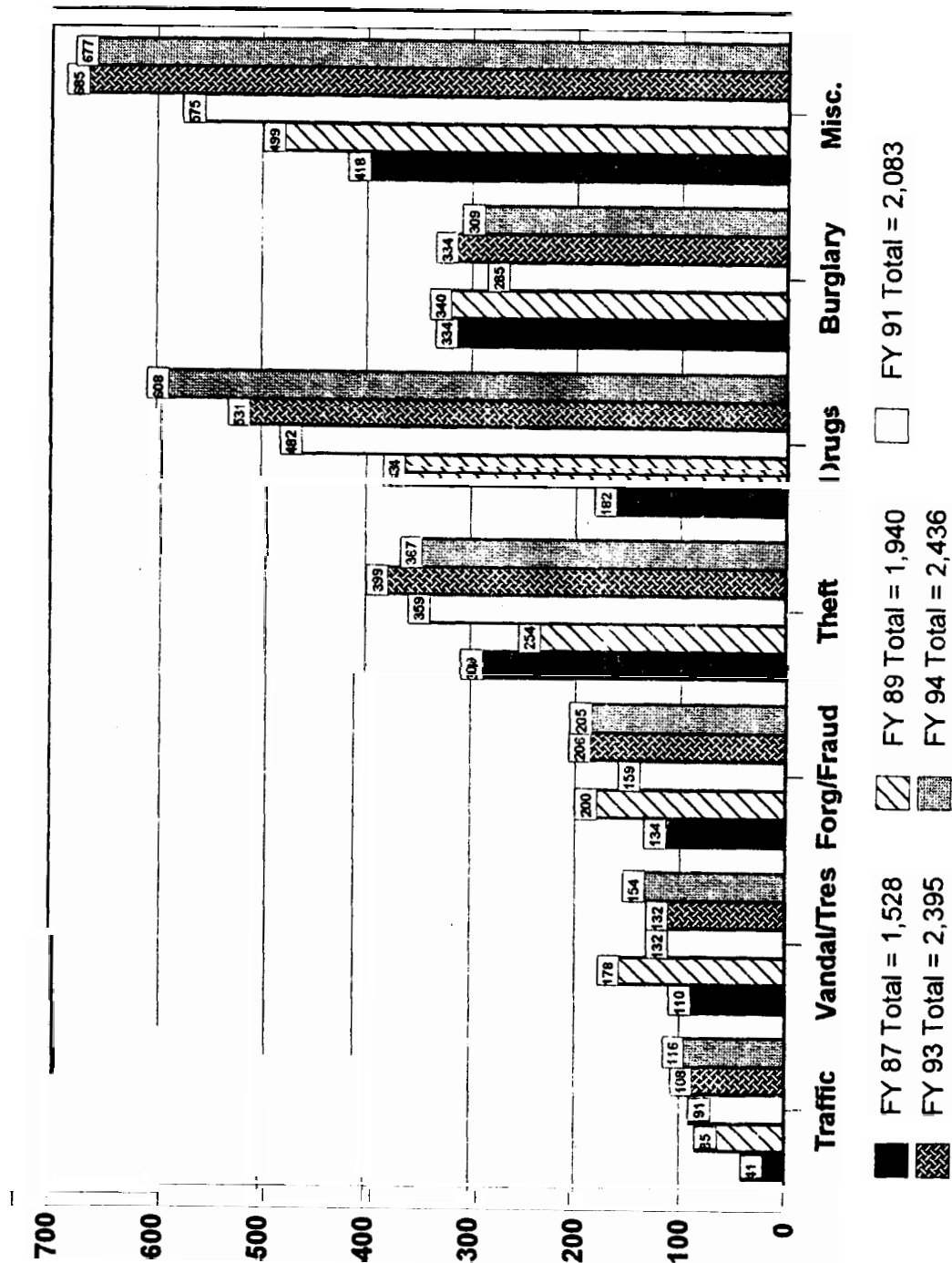
**Graph 10.7: Number of New Offenders Committed for Non-Violent Offenses  
FY 87 and FY 94**



Miscellaneous = attempt, conspiracy, accessory, mischief, court/corrections offenses, family crimes, escape/contraband, habitual, and other miscellaneous offenses.

Source: Department of Corrections.

**Graph 10.8: Number of New Offenders Committed for Non-Violent Offenses**  
**FY 87 — FY 94**



Misc. = attempt, conspiracy, accessory, habitual, and other miscellaneous offenses.  
 Source: Department of Corrections.

## **INMATE POPULATION**

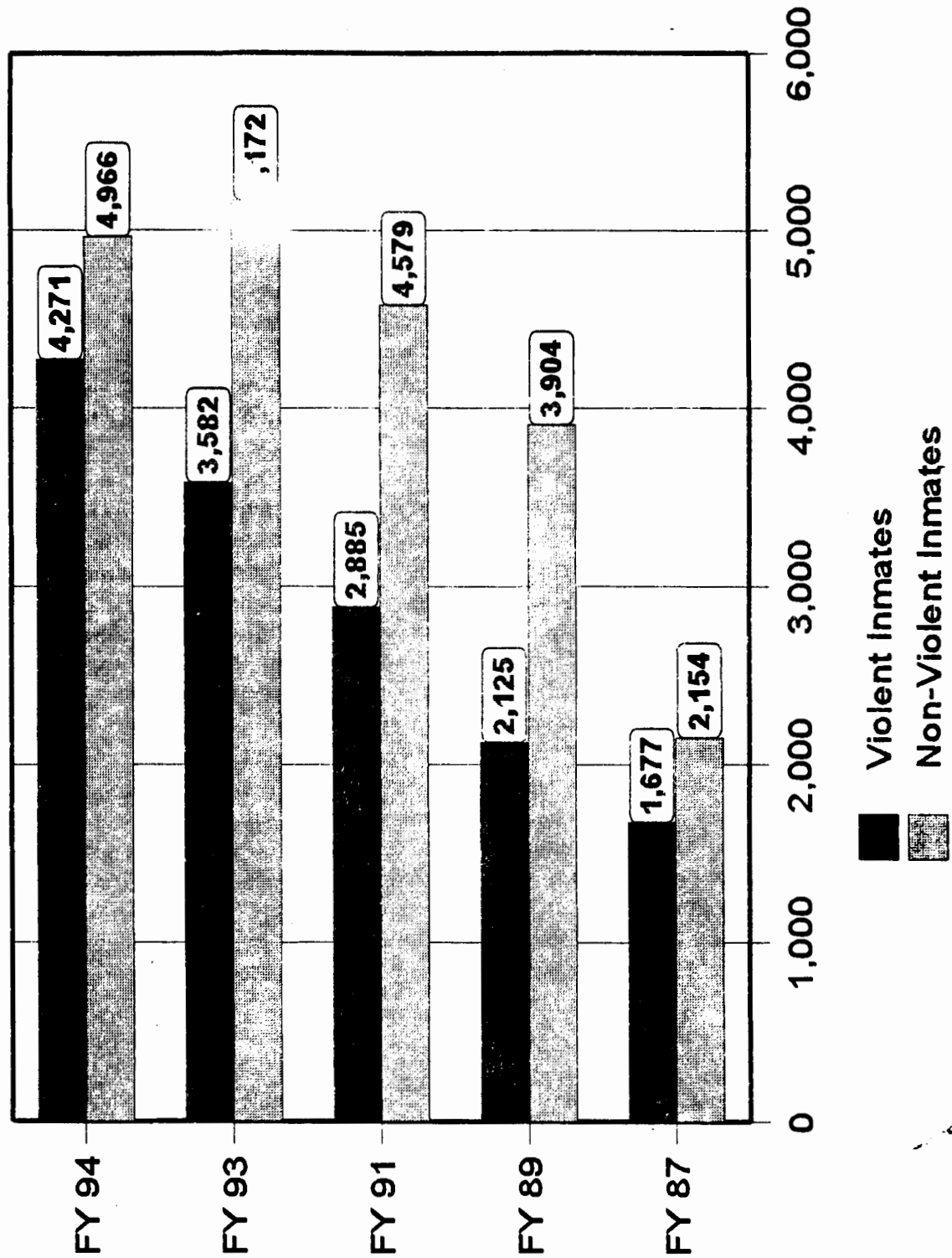
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***Inmate population for violent crimes.*** The number of violent offenders in prison increased at a 14.3 percent annualized pace between FY 1986-87 and FY 1993-94 (Graph 10.9). This represents a much greater gain than the advance in new *commitments* for violent offenses because of longer sentences imposed for violent offenses during the time period examined.

Graphs 10.10 and 10.11 depict the violent inmate population by type of crime. In FY 1993-94, prisoners sentenced for sexual assault comprised 24.8 percent of the violent inmate population, followed by the other category (21.6 percent) and robbery (18.4 percent). In terms of growth, offenders sentenced for "other" violent crimes (kidnapping, menacing, arson, weapons/explosives offenses, child abuse, attempt/conspiracy/accessory offenses and Sex Offender Act offenses) posted the strongest advance during this period, growing at a 27.6 percent annualized pace. Assaults registered the next-strongest annualized gain at 16.8 percent, followed by sexual assaults at 14.8 percent.

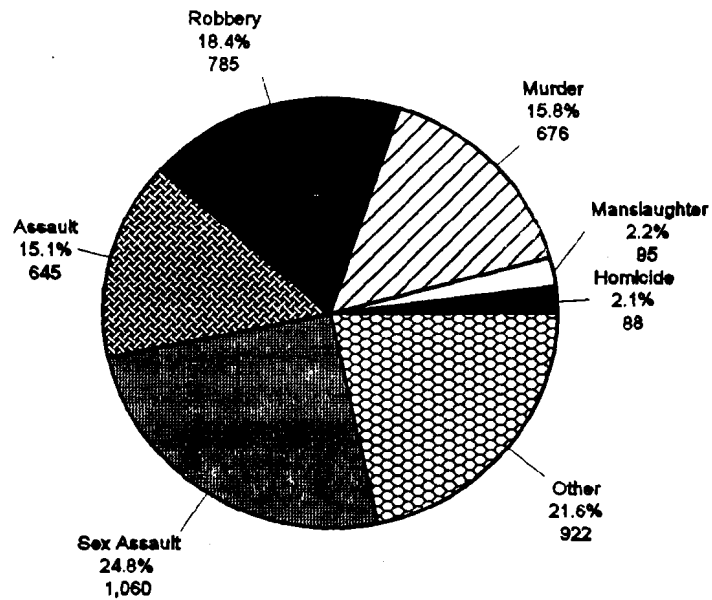
***Inmate population for non-violent crimes.*** The number of non-violent inmates in prison increased at a 12.7 percent annualized pace between FY 1986-87 and FY 1993-94 (Graph 10.9). In FY 1993-94, the number of non-violent inmates in prison declined. However, this decline may partly be the result of reclassification of some crimes as violent. Again, the relative stronger growth in the number of inmates sentenced for non-violent offenses during the seven-year period compared with the number of new commitments reflects longer sentences as the result of legislation adopted in 1985. Inmates in prison for drug and traffic offenses showed strong growth during this period. Convicted drug offenders comprise 20.8 percent of inmates in prison for non-violent offenses and have registered a 27.2 percent annualized gain since FY 1986-87. Theft ranks next in terms of growth, growing at a 14.7 percent annualized pace. The weakest growth category was in forgery/fraud, growing at a 7.1 percent annualized pace. Offenders in prison for miscellaneous offenses, burglary, and drug offenses comprise nearly 70 percent of all inmates in prison for non-violent offenses. Miscellaneous crimes include family crimes, escape/contraband, attempt to commit a felony, accessory, and habitual offenders as well as other miscellaneous offenses.

Graph 10.9: Number of Inmates in Prison for Violent vs. Non-Violent Offenses

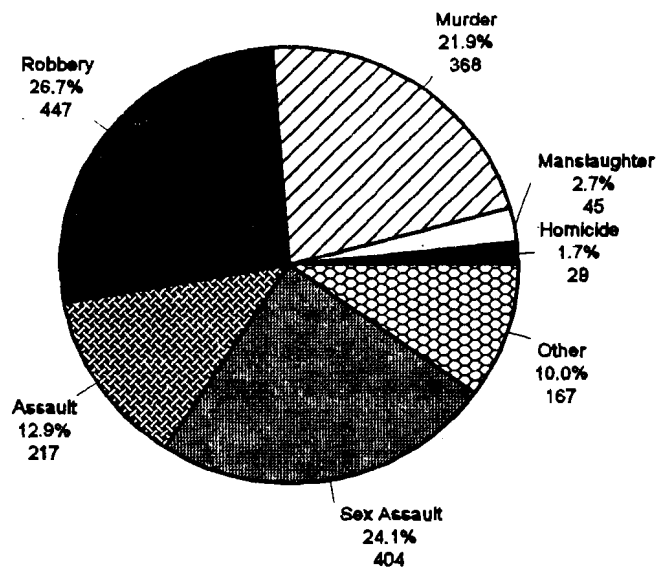


**Graph 10.10: Number of Inmates in Prison for Violent Offenses**

**FY 94 = 4,271**



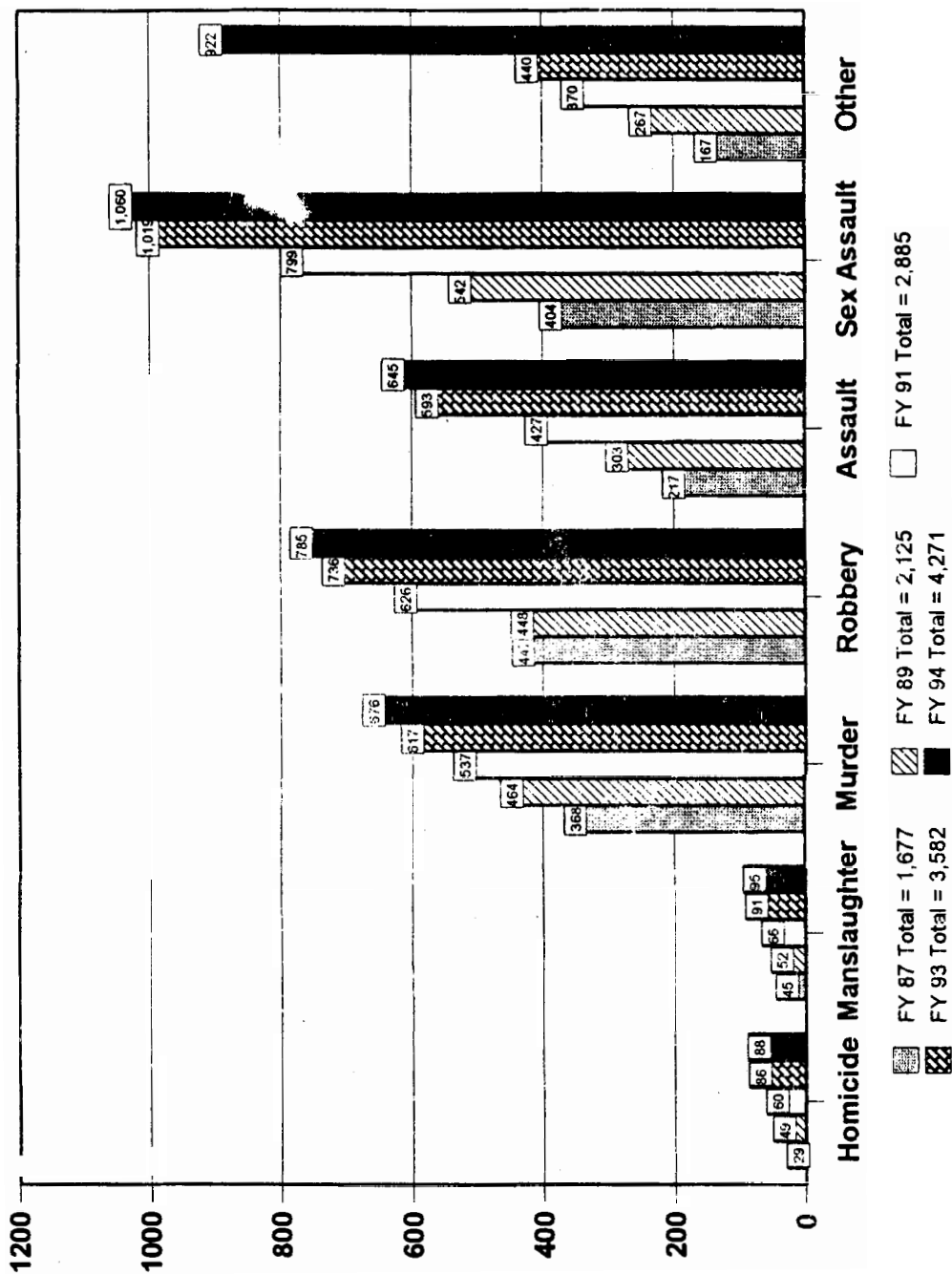
**FY 87 = 1,677**



Other = kidnapping, menacing, arson, weapons/explosives offenses, child abuse, and extortion.

Source: Department of Corrections.

**Graph 10.11: Number of Inmates in Prison for Violent Offenses**  
**FY 87 — FY 94**

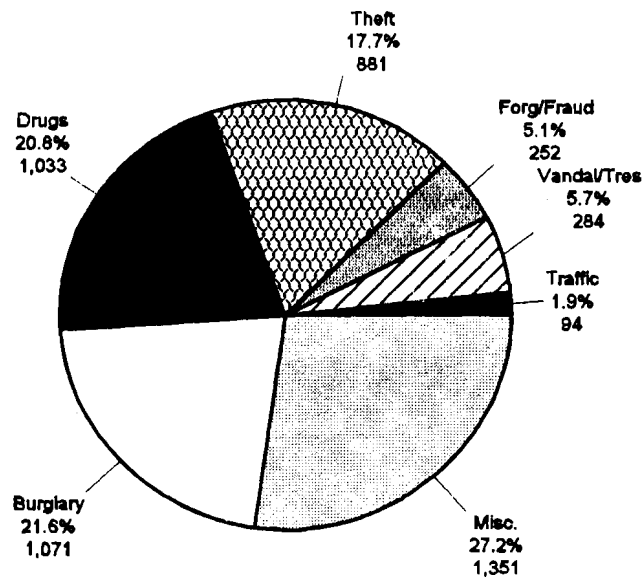


Other = kidnapping, menacing, arson, weapons/explosives, child abuse, attempt/accessory/conspiracy, and Sex Offender Act offenses.

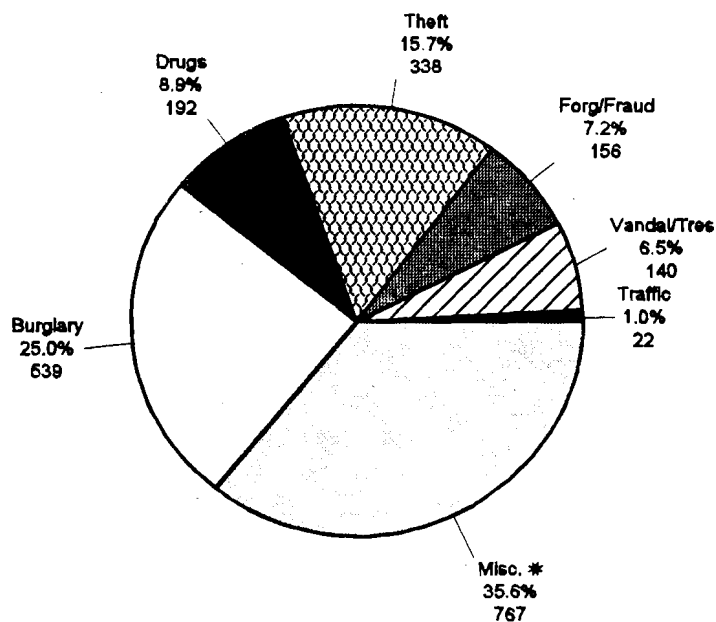
Source: Department of Corrections.

**Graph 10.12: Number of Inmates in Prison for Non-Violent Offenses**

**FY 94 = 4,966**



**FY 87 = 2,151**

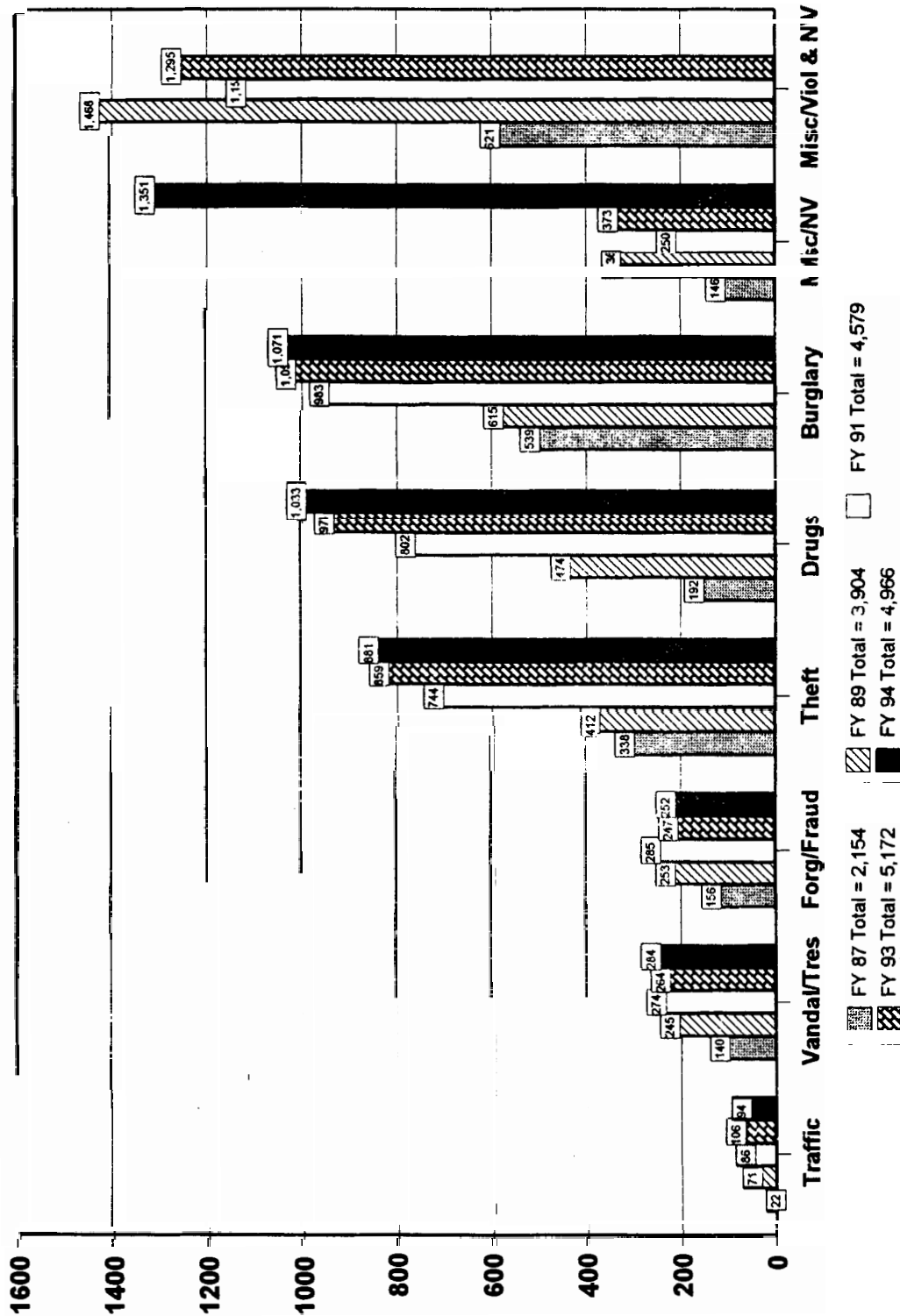


\* Because of the way miscellaneous offenses were categorized in FY 1987, this number includes some violent miscellaneous offenses.

Miscellaneous = attempt, conspiracy, accessory, mischief, court/corrections offenses, family crimes, escape/contraband, habitual, and other miscellaneous offenses.

Source: Department of Corrections.

**Graph 10.13: Number of Inmates in Prison for Non-Violent Offenses  
FY 87 — FY 94**



Note: The Miscellaneous/Violent and Non-Violent category was disaggregated in FY 93-94 to Miscellaneous/Non-Violent and Other/Violent. Thus, there are no data in Miscellaneous/Violent and Non-Violent in FY 93-94.

Misc/NV = family crimes and escape.

Misc/Viol & NV = combined violent and non-violent offenses of attempt, conspiracy, accessory, habitual, other, and unknown.

Source: Department of Corrections.



## **THE CRIMINAL HISTORY PROFILES OF PERSONS COMMITTED TO PRISON FOR NON-VIOLENT OFFENSES**

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During the 1995 session of the Colorado General Assembly, several bills were introduced designed to reduce the need for additional prison construction by diverting offenders convicted of non-violent felony crimes toward less costly alternatives such as community corrections programs, probation, intensive supervision probation, and useful public service. This analysis provides the General Assembly with criminal history profiles of offenders sentenced to prison for non-violent convictions, thus enabling policy makers to determine which, if any, non-violent offenders currently sentenced to prison might be better served through other types of correctional supervision.

We used a fairly broad definition of violent crimes in this analysis: all crimes against persons, including felony menacing, simple robbery, manslaughter, and child abuse, as well as the crimes listed under Section 16-11-309, C.R.S. Out of the cases in the sample that were filed in 1993 and resulted in a conviction for a non-violent offense, 25.0 percent were sentenced to prison.

Table 10.1 and Graph 10.14 provide information on the prior criminal histories of offenders convicted of non-violent crimes. A substantial number of inmates incarcerated for non-violent offenses have serious prior criminal histories, some of which include prior violent offenses and prison incarcerations. For example, as shown in Table 10.1, 4.4 percent of those sentenced to prison for a non-violent crime were convicted on a plea bargain from an original violent crime charge; 49.3 percent had a prior prison incarceration either in Colorado or another state; and 37.9 percent had one or more prior adult convictions for a violent crime. Overall, 26.2 percent of the offenders sentenced to prison for a non-violent crime had both a prior violent conviction and a prison incarceration.

It should be noted that these non-violent offenders have been placed directly in prison by the courts. Some non-violent offenders enter prison after the revocation of a community corrections or a probation sentence. Overall, these offenders may have somewhat different criminal histories than those sentenced directly to prison.

Table 10.1 includes data on the arrest records of those offenders sentenced to prison for non-violent offenses. An arrest does not necessarily indicate guilt, and it is likely that some of the arrests included in the data did not result in charges being filed or a conviction for a crime. Thus, arrest data may imply a higher level of prior criminal activity than actually took place. However, data on prior *convictions* may understate past criminal activity because many first-time offenders receive deferred judgments for the crimes they commit. Such prior crimes would not show up in the data as felony convictions if the offender managed to keep a clean criminal record during the probation period following the deferred judgment. Also, as part of the plea bargaining process, charges for separate crimes or crimes committed in different jurisdictions are often dropped for a guilty plea to a single crime.

Based on these data, it is possible to narrow the definition of non-violent offender based on offenders' criminal history. Graph 10.14 progressively excludes more and more non-violent offenders based on the characteristics of the criminal episode for which they went to prison and their criminal history. The "percent remaining" represents the percent of non-violent prison admissions that do not have any of the elements of criminal history listed prior to them in Graph 10.14. The table and graph show that there are few offenders currently being sentenced to prison for a conviction on a non-violent offense who have not shown a long history of criminal behavior, often involving violence, either as adults or juveniles. If we were to exclude from the definition of non-violent all offenders who were convicted of a violent offense on a plea bargain down from violent offense, have had prior convictions for non-violent offenses either as an adult or a juvenile, or have had prior prison incarcerations, only 35.8 percent of the inmates entering the DOC for non-violent offenses would still be considered "non-violent" (Graph 10.14).

**Table 10.1: Percent of Non-Violent Prison Admissions Having Prior Criminal Justice System Experiences:**

***Crime Episode of Conviction:***

<i>Conviction for a non-violent offense on plea bargain from violent charge</i>	<b>4.4%</b>
Use of a deadly weapon in commission of crime	<b>3.7%</b>
Physical injury to the victim	<b>2.0%</b>

***Adult Arrests:***

Prior adult arrests — violent crime	(1 or more)	<b>50.0%</b>
	(2 or more)	<b>24.5%</b>
	(3 or more)	<b>13.3%</b>
	(4 or more)	<b>9.6%</b>
	(5 or more)	<b>6.6%</b>
	(6 or more)	<b>4.6%</b>
	(7 or more)	<b>1.7%</b>
	(8 or more)	<b>1.3%</b>
Prior adult arrests — non-violent crime	(1 or more)	<b>95.1%</b>
	(2 or more)	<b>83.3%</b>
	(3 or more)	<b>74.2%</b>
	(4 or more)	<b>64.1%</b>
	(5 or more)	<b>55.9%</b>
	(6 or more)	<b>51.0%</b>
	(7 or more)	<b>45.8%</b>
	(8 or more)	<b>37.6%</b>

**Adult Convictions:**

Prior adult convictions — felony (separate incidents)	(1 or more)	79.0%
	(2 or more)	52.4%
	(3 or more)	28.8%
	(4 or more)	17.2%
	(5 or more)	8.7%
	(6 or more)	7.1%
	(7 or more)	2.6%
	(8 or more)	1.6%
<b>Prior adult convictions — violent</b> (separate incidents)	<b>(1 or more)</b>	<b>37.9%</b>
	(2 or more)	14.8%
	(3 or more)	4.0%
Prior adult convictions — non-violent (separate incidents)	(1 or more)	90.4%
	(2 or more)	73.5%
	(3 or more)	59.9%
	(4 or more)	48.7%
	(5 or more)	37.4%
	(6 or more)	30.5%
	(7 or more)	23.2%
	(8 or more)	18.5%
Prior robbery conviction		12.0%
Prior sex offense conviction		2.4%
Prior assault with a weapon conviction		2.1%
Prior assault without a weapon conviction		4.8%

**Correctional Supervisions:**

<b>Prior prison incarcerations</b>	<b>(1 or more)</b>	<b>49.3%</b>
	(2 or more)	29.7%
	(3 or more)	17.0%
	(4 or more)	9.3%
	(5 or more)	4.7%
	(6 or more)	3.0%
Prior community corrections supervisions	(1 or more)	26.0%
	(2 or more)	5.3%
	(3 or more)	1.0%

Prior jail supervisions	(1 or more)	61.4%
	(2 or more)	36.2%
	(3 or more)	22.5%
	(4 or more)	17.1%
	(5 or more)	10.9%
	(6 or more)	7.1%
	(7 or more)	3.8%
	(8 or more)	3.6%
Prior adult probation supervisions	(1 or more)	69.7%
	(2 or more)	29.7%
	(3 or more)	15.0%
	(4 or more)	5.0%
	(5 or more)	1.3%

**Revocations:**

Prior parole revocations	(1 or more)	9.6%
	(2 or more)	2.0%
	(3 or more)	0.7%
Prior probation revocations	(1 or more)	34.5%
	(2 or more)	7.4%
	(3 or more)	2.0%
Prior community corrections revocations	(1 or more)	8.9%
	(2 or more)	1.7%

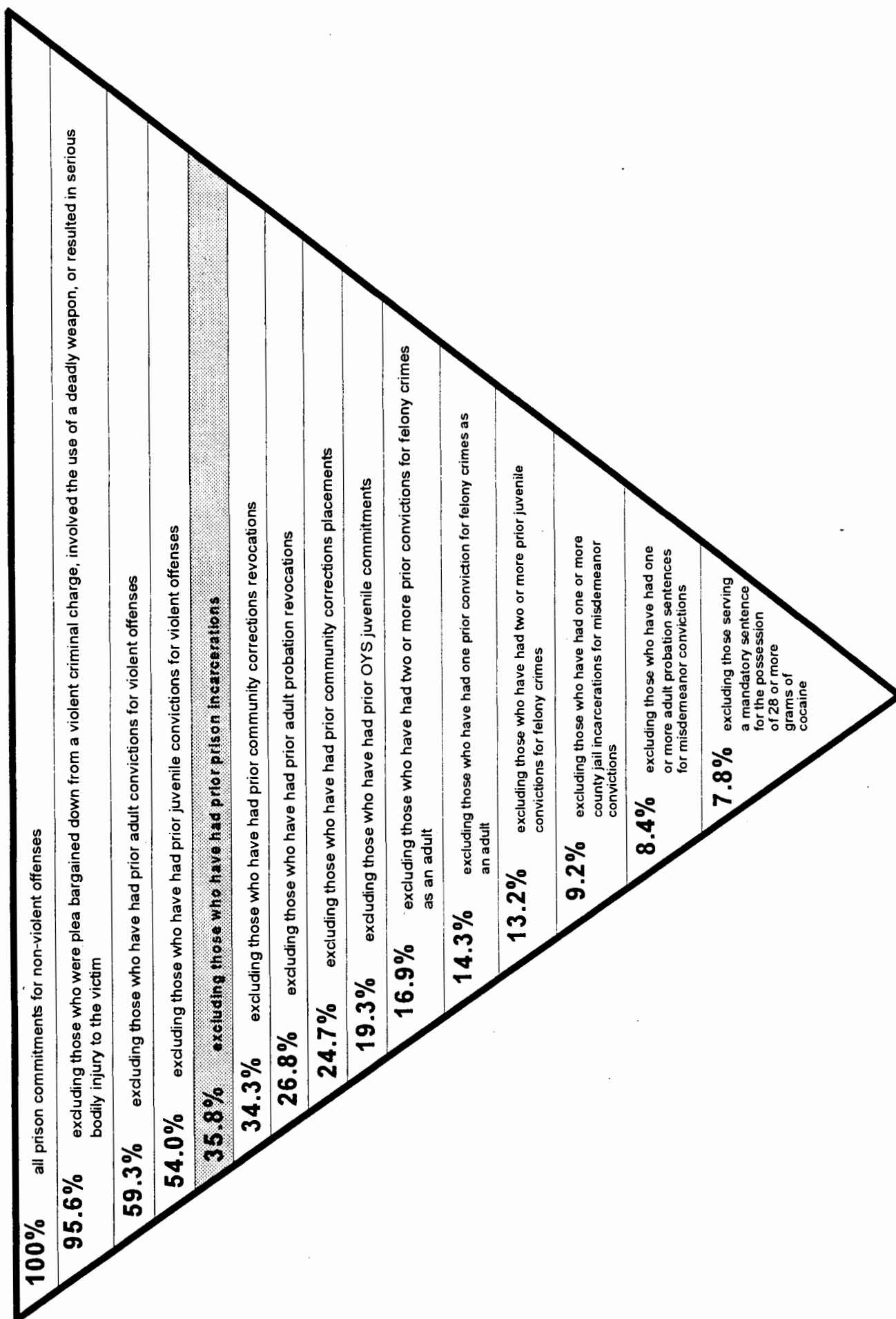
**Gang Activity:**

Current gang involvement	2.7%
Prior record of gang involvement	1.1%

**Juvenile History:**

Juvenile conviction — all crimes (1 or more)	44.7%
Juvenile conviction — violent crime (1 or more)	7.9%
Juvenile conviction — non-violent crime (1 or more)	39.0%
Commitment to Office of Youth Services (1 or more)	23.7%
Juvenile probation/parole supervision (1 or more)	33.8%
Juvenile probation/parole revocation (1 or more)	13.6%

# Graph 10.14: Narrowing the Definition of a Non-Violent Criminal



## **Chapter 11 — Demographic Characteristics: New Commitments and Inmates**

The purpose of this chapter is to illustrate the demographic characteristics of new commitments and inmates, as well as their patterns of change since FY 1986-87. A number of trends are noticeable.

## **NEW COMMITMENT DEMOGRAPHICS**

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- The vast majority of new commitments are male (Table 11.1). This percentage, 91 percent in FY 1993-94, has remained relatively constant throughout the early 1990s (data by gender are not available prior to FY 1990-91). In particular, males aged 20 to 24, comprise the largest segment of new commitments, followed by males aged 25 to 29, then males aged 30 to 34.
- By age group (Table 11.2), the 20 to 24 year-old category comprises the largest share of the inmate population, 23.1 percent. The age group experiencing the greatest increase between FY 1990-91 and FY 1993-94, was males aged 15 to 19, who now comprise 7.5 percent of new commitments, compared with only 4.3 percent in FY 1990-91. In contrast, there has been a relative decline in the proportion of newly-committed males aged 25 to 29. The percentage of females by age noted a relative increase in the 20 to 39 year-old age groups. The most significant gain for new female commitments was in the 20 to 24 year-old age category.
- There are notable differences in the age breakout between males and females. There is a disproportionately large share of males in the 15 to 24 year-old age group, whereas there is a disproportionately large share of females in the 30 to 49 year-old category. Males aged 15 to 24 comprise 31 percent of all male new commitments, compared with only 19 percent for females. Meanwhile, females aged 30 to 49 comprise 58 percent of all female commitments, versus 44 percent for males.
- By ethnicity (Table 11.3), the data show that the percentage of total Anglo commitments relative to all commitments decreased from 54.0 percent in FY 1986-87 to 43.9 percent in FY 1993-94. All other ethnic categories increased in relative importance during this period: Hispanic commitments increased from 23.6 percent to 26.8 percent of new commitments; the share of Black new commitments grew from 20.6 percent to 24.8 percent; and new commitments classified as "other" rose from 1.8 percent of the commitment population to 4.5 percent. (It should be noted that ethnicity data are reported by inmates and are increasingly suspect given the growing multi-racial characteristics of the population.)
- Ethnicity data by gender for new commitments are not available prior to FY 1990-91. Nonetheless, there are some discernible trends that occurred since that time period. For males, the trends were not significantly different than those that occurred during the FY 1986-87 to FY 1992-93 time period. For females, however, there were some differences. Anglo females retained approximately a 41 percent share of the commitment population. Blacks grew from 32.3 percent to 34.5 percent of newly-committed females from FY 1990-91 through FY 1993-94, while Hispanics decreased from 20.9 percent to 17.4 percent of new female commitments.

## **INMATE DEMOGRAPHICS**

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- As has been the case with the state's population as a whole, the inmate population aged since FY 1986-87. The average age of the inmate population increased from 31 in FY 1986-87 to 34 in FY 1993-94 (Table 11.5).
- Similar to the trend in new commitments, the Anglo portion of the inmate population has decreased from 50.3 percent of the inmates in FY 1986-87 to 45.8 percent in FY 1993-94 (Table 11.4). While the share of Anglo males and females in the prison populations decreased since FY 1986-87, Anglos comprise the largest ethnic segment among the prison population.
- Hispanics comprise the second-largest segment of the inmate population at 25.9 percent. This overall proportion has remained relatively constant since FY 1986-87, although there has been a relative increase in the female proportion of Hispanic inmates during this period.
- The Black proportion of the prison population has continued to steadily increase from 22.5 percent of inmates in FY 1986-87, to 24.9 percent in FY 1993-94. This trend has remained relatively consistent for both males and females.
- The female population has consistently hovered between 5.3 percent and 6.0 percent of inmates during the seven-year period analyzed.



Table 11.1: New Commitments by Gender

FY 91		
Male	Female	Total
2,706	235	2,941
92.01%	7.99%	100.00%

FY 93		
Male	Female	Total
3,081	268	3,349
92.00%	8.00%	100.00%

FY 94		
Male	Female	Total
3,239	304	3,543
91.42%	8.58%	100.00%

Table 11.2: Age of New Commitments by Gender

	FY 91				FY 93				FY 94			
	Male	Female	Total	Co. Pop. /1	Male	Female	Total	Co. Pop. /1	Male	Female	Total	Co. Pop. /1
15-19	115 4.25%	6 2.55%	121 4.11%	227,547 8.85%	236 7.66%	4 1.49%	240 7.17%	247,350 9.19%	244 7.53%	8 2.63%	252 7.11%	257,480 9.28%
20-24	671 24.80%	28 11.91%	699 23.77%	241,183 9.38%	727 23.63%	48 17.91%	775 23.14%	241,841 8.98%	768 23.71%	51 16.78%	819 23.12%	260,534 9.39%
25-29	654 24.17%	52 22.13%	706 24.01%	291,146 11.32%	660 21.42%	74 27.61%	734 21.92%	256,520 9.53%	678 20.93%	62 20.39%	740 20.89%	239,171 8.62%
30-34	535 19.77%	51 21.70%	586 19.93%	323,527 12.58%	619 20.09%	67 25.00%	686 20.48%	329,102 12.23%	647 19.98%	75 24.67%	722 20.38%	330,586 11.91%
35-39	329 12.16%	44 18.72%	373 12.68%	305,988 11.90%	390 12.66%	37 13.81%	427 12.75%	327,903 12.18%	424 13.09%	57 18.75%	481 13.58%	337,149 12.15%
40-49	297 10.98%	39 16.60%	336 11.42%	452,666 17.60%	356 11.55%	32 11.94%	388 11.59%	514,033 19.10%	368 11.36%	44 14.47%	412 11.63%	544,544 19.62%
50-59	73 2.70%	13 5.53%	86 2.92%	277,142 10.78%	76 2.47%	5 1.87%	81 2.42%	299,860 11.14%	87 2.69%	7 2.30%	94 2.65%	319,792 11.52%
60-69	28 1.03%	2 0.85%	30 1.02%	233,450 9.08%	14 0.45%	1 0.37%	15 0.45%	240,174 8.92%	18 0.56%	0 0.00%	18 0.51%	243,856 8.78%
70+	4 0.15%	0 0.00%	4 0.14%	218,629 8.50%	3 0.10%	0 0.00%	3 0.09%	235,155 8.74%	5 0.15%	0 0.00%	5 0.14%	242,799 8.75%
Total	2,706 100.00%	235 100.00%	2,941 100.00%	2,571,278 100.00%	3,081 100.00%	268 100.00%	3,349 100.00%	2,691,938 100.00%	3,239 100.00%	304 100.00%	3,543 100.00%	2,775,911 100.00%

Table 11.3: Ethnicity of New Commitments by Gender

	FY 87		FY 89		FY 91				FY 93				FY 94			
	M/F	Total	M/F	Total	Male	Female	Total	Co. Pop. /1	Male	Female	Total	Co. Pop. /1	Male	Female	Total	Co. Pop. /1
Anglo	NA	1,244 54.04%	NA	1,347 48.82%	1,302 48.12%	96 40.85%	1,398 47.53%	2,715,996 80.60%	1,439 46.71%	118 44.03%	1,557 46.49%	2,860,128 80.20%	1,431 44.18%	124 40.79%	1,555 43.89%	2,928,173 80.10%
Hispanic		543 23.59%		677 24.54%	707 26.13%	49 20.85%	756 25.71%	417,846 12.40%	797 25.87%	48 17.91%	845 25.23%	449,347 12.60%	896 27.66%	53 17.43%	949 26.79%	464,267 12.70%
Black		473 20.55%		613 22.22%	554 20.47%	76 32.34%	630 21.42%	141,528 4.20%	709 23.01%	91 33.96%	800 23.89%	153,349 4.30%	774 23.90%	105 34.54%	879 24.81%	157,193 4.30%
Other		42 1.82%		122 4.42%	143 5.28%	14 5.96%	157 5.34%	94,352 2.80%	136 4.41%	11 4.10%	147 4.39%	103,421 2.90%	138 4.26%	22 7.24%	160 4.52%	106,014 2.90%
Total		2,302 100.00%		2,759 100.00%	2,706 100.00%	235 100.00%	2,941 100.00%	3,369,722 100.00%	3,081 100.00%	268 100.00%	3,349 100.00%	3,566,245 100.00%	3,239 100.00%	304 100.00%	3,543 100.00%	3,655,647 100.00%

NA - Not Applicable

/1 - The Colorado Population is the population on July 1, the last day of that fiscal year

Source: Department of Corrections

Table 11.4: Ethnicity of Inmate Population by Gender

	FY 87			FY 89			FY 91			FY 93			FY 94		
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total
Anglo	1,831 50.48%	97 47.78%	1,928 50.34%	2,694 48.00%	168 46.93%	2,862 47.93%	3,231 45.70%	176 44.67%	3,407 45.65%	3,857 46.60%	211 44.14%	4,068 46.47%	4,003 46.00%	229 42.88%	4,232 45.82%
Hispanic	932 25.70%	35 17.24%	967 25.25%	1,516 27.01%	54 15.08%	1,570 26.29%	1,760 24.89%	78 19.80%	1,838 24.62%	2,152 26.00%	93 19.46%	2,245 25.65%	2,289 26.30%	101 18.91%	2,390 25.87%
Black	798 22.00%	65 32.02%	863 22.53%	1,291 23.00%	118 32.96%	1,409 23.60%	1,619 22.90%	122 30.96%	1,741 23.33%	2,003 24.20%	164 34.31%	2,167 24.75%	2,115 24.30%	189 35.39%	2,304 24.94%
Other	66 1.82%	6 2.96%	72 1.88%	112 2.00%	18 5.03%	130 2.18%	460 6.51%	18 4.57%	478 6.40%	264 3.19%	10 2.09%	274 3.13%	296 3.40%	15 2.81%	311 3.37%
Total	3,627 100.00%	203 100.00%	3,830 100.00%	5,613 100.00%	358 100.00%	5,971 100.00%	7,070 100.00%	394 100.00%	7,464 100.00%	8,276 100.00%	478 100.00%	8,754 100.00%	8,703 100.00%	534 100.00%	9,237 100.00%

Table 11.5: Average Age of Inmate Population by Gender

	FY 87	FY 89	FY 91	FY 93	FY 94
Male	31	32	32	32	34
Female	31	33	33	33	33
Total	31	32	32	32	34

Source: Department of Corrections.

## **Chapter 12 — Sentence Length and Average Length of Stay of Prison Inmates**

This section analyzes the average *sentence length* and the average *length of stay* of inmates committed to the Department of Corrections (DOC). Because of earned time and parole discharges, a felon typically does not serve the sentence length imposed. Hence, average length of stay measures how long the offender stays in prison. Tables 12.1 and 12.2 present these measures by felony class for inmates entering the DOC in each fiscal year between FY 1982-83 and FY 1994-95. Graphs 12.1 through 12.8 compare the average sentence length and length of stay for felons entering DOC by felony class for the same period. Table 12.3 provides this information by crime for FY 1994-95.

## **TRENDS IN SENTENCE LENGTH AND LENGTH OF STAY**

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Graphs 12.1 through 12.8 demonstrate several things. Overall, average length of stay has hovered around 55 percent of sentence length imposed during the last 13 years, with some variation for different crime types and felony classes. However, between FY 1982-83 and FY 1994-95 average sentence length and average length of stay fluctuated significantly, roughly doubling between FY 1984-85 and FY 1987-88, then declining significantly. During the last five years, however, estimated overall average length of stay remained fairly stable, ranging from 3.60 to 3.88 years, while average sentence length ranged between 6.24 and 6.89 years. The following factors explain the movements in sentence length and estimated length of stay demonstrated in the tables and graphs.

- On July 1, 1985, House Bill 85-1320 was enacted, doubling the maximum of the presumptive range for all offenses and increasing the aggravated sentencing ranges. The effects of House Bill 85-1320 were manifested in the near doubling of the overall average sentence length from 5.3 years in FY 1984-85 to 8.7 years in FY 1987-88 (Table 12.1). Meanwhile, the average length of stay increased from 2.7 years in FY 1984-85 to 5.3 years in FY 1987-88 (Table 12.2).
- On July 1, 1988, Senate Bill 88-148 was enacted, redefining the aggravated sentencing range from "greater than the maximum sentence to twice the maximum" to the "midpoint of the sentence range to twice the maximum." This effectively decreased the average sentence length from 8.74 years in FY 1987-88 to 6.99 years in FY 1989-90. Average length of stay showed a corresponding decline.
- On July 1, 1989, Senate Bill 89-246 was enacted, creating a new class 6 felony class, redefining some class 5 felonies to class 6 and some class 4 felonies to class 5. This legislation also contributed somewhat to the reductions in sentence length and length of stay between FY 1988-89 and FY 1990-91.
- On July 1, 1990, House Bill 90-1327 was enacted, doubling the amount of earned time an inmate was eligible to receive from five days per month to ten days per month, thus reducing lengths of stay significantly.
- On July 1, 1993, House Bill 93-1302 was enacted, reducing the maximum of the presumptive sentencing range for non-extraordinary risk offenses, including most non-violent crimes. This potentially accounted for the small decline in average sentence length of class 4, 5, and 6 felons between FY 1992-93 and FY 1994-95.

- The parole board has become somewhat more restrictive in its release decisions over the last half decade, mitigating the impact of these sentencing law changes somewhat. For all felony classes, the percentage of sentence discharge releases relative to total releases rose between FY 1989-90 and FY 1994-95, while the percentage of releases to parole declined. Thus, more prisoners are serving their entire sentences, less earned time, since sentence lengths were reduced and earned time was increased.

### **SENTENCE LENGTH AND AVERAGE LENGTH OF STAY BY CRIME**

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Within felony classes, sentence lengths and average lengths of stay vary with the type of crime committed (Table 12.3). Generally, offenders convicted of violent crimes and sex crimes receive longer sentences than those convicted of drug or property offenses within the same felony class. For example, in FY 1994-95 significantly longer sentences were conferred on those convicted of violent class 3 felonies, such as first-degree assault (20.9 years), first-degree sexual assault (15.2 years), sexual assault on a child (15.2 years), and aggravated robbery (22.6 years) than on those convicted of non-violent class 3 felony offenses, such as second-degree burglary of a dwelling (9.1 years) and controlled substance abuse offenses (6.2 years). The primary reason for this phenomenon is that Section 16-11-309, C.R.S., requires sentence lengths between the midpoint and twice the maximum of the presumptive sentencing range to be given to felons convicted of numerous violent crimes. Thus, while the presumptive sentencing range for class 3 felonies is currently four to 12 years, for violent felonies the effective range is eight to 24 years.

The sentence length of inmates is the primary determinant of the length of time they spend in prison. Some types of inmates, however, generally spend a larger percentage of their sentences in prison than others. Most prominent among these inmates are sex offenders, including offenders in prison for other types of crimes who have had previous convictions for sex offenses. The reasons for this include the parole board's reluctance to parole sex offenders and community corrections boards' frequent unwillingness to accept sex offenders into transition community corrections programs, a common progression from prison to parole for most inmates. For example, we estimate class 3 sex offenders to spend approximately 65 percent of their sentences incarcerated, while the average length of stay of non-violent class 3 felons is estimated to be only 47 percent of the sentence. The average length of stay for violent non-sex offense class 3 felons is 52 percent of the sentence imposed.

**Table 12.1: Average Sentence Length of Incoming DOC Inmates by Felony Class,  
FY 1982-83 through FY 1994-95  
(Years)**

Fiscal Year	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6**	Total
Y 1982-83	28.73	16.16	6.21	3.16	1.78		4.23
Y 1983-84	27.67	21.34	6.93	3.37	1.79		4.47
Y 1984-85	27.70	17.90	8.15	4.16	2.53		5.30
Y 1985-86	39.90	22.90	9.89	4.71	3.94		7.01
Y 1986-87	Life	30.59	11.84	6.55	4.10		8.48
Y 1987-88	Life	42.17	12.38	6.38	4.01		8.74
Y 1988-89	Life	41.82	12.09	6.32	3.47		8.00
Y 1989-90	Life	32.76	10.88	5.66	3.16	3.40	6.99
Y 1990-91	Life	33.00	10.59	5.49	3.33	2.45	6.84
Y 1991-92	Life	34.82	11.34	5.26	3.36	2.38	6.65
Y 1992-93	Life	35.39	9.58	5.26	3.15	2.02	6.24
Y 1993-94	Life	43.43	10.81	5.23	3.01	2.24	6.89
FY 1994-95*	Life	40.72	10.78	4.99	2.96	1.62	6.59

\* FY 1994-95 figure represents the nine-month period of July 1994 through March 1995.

\*\* The class 6 felony class was created in 1989.

**Table 12.2: Estimated Average Length of Stay of Incoming DOC Inmates  
by Felony Class, FY 1982-83 through FY 1994-95  
(Years)**

Fiscal Year	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6**	Total
FY 1982-83	20.69	8.08	3.04	1.45	0.91		2.15
FY 1983-84	20.20	9.82	3.33	1.58	0.97		2.23
FY 1984-85	20.50	8.77	3.91	1.99	1.39		2.69
FY 1985-86	38.71	11.22	5.15	2.40	2.25		3.92
FY 1986-87	40.00	15.30	6.40	3.54	2.38		4.93
FY 1987-88	40.00	21.93	6.81	3.51	2.40		5.33
FY 1988-89	40.00	22.16	6.65	3.47	2.11		4.82
FY 1989-90	40.00	17.36	5.98	3.11	1.90	2.08	3.83
FY 1990-91	Life	15.84	5.51	2.74	1.83	1.37	3.88
FY 1991-92	Life	17.06	5.90	2.63	1.88	1.36	3.67
FY 1992-93	Life	18.05	4.98	2.74	1.79	1.19	3.60
FY 1993-94	Life	22.15	5.60	2.62	1.75	1.22	3.86
FY 1994-95*	Life	22.15	5.60	2.62	1.75	1.22	3.86

\* FY 1994-95 figure represents the nine-month period of July 1994 through March 1995.

\*\* The class 6 felony class was created in 1989.

Offenders with shorter sentences and those convicted of less serious crimes do not necessarily serve shorter proportions of their sentences. For example, among class 3 felons released from prison in FY 1994-95 (366 releases), 19.1 percent were discharged because they had served their entire sentence, less earned time. The remaining 80.9 percent were released to parole. Among class 6 felons, however, there were more mandatory releases of inmates who had served their full sentences (189) than discretionary releases to parole (140 releases), indicating that many offenders with very short sentences are serving their entire sentences in prison without being paroled. One reason for this phenomenon is that the minority of total class 5 and class 6 offenders who are sent to prison might have serious prior criminal histories, resulting in many being at a higher risk for recidivism than those committed to prison for more serious crimes. Very short sentences may also result in many offenders reaching their parole eligibility dates before they have completed substance abuse or other treatment programs, resulting in the deferral of their parole. Thus, we estimate average length of stay for class 6 felons to be 60 percent of their sentences, the highest percentage of any felony class other than class 1 felons (life without parole).

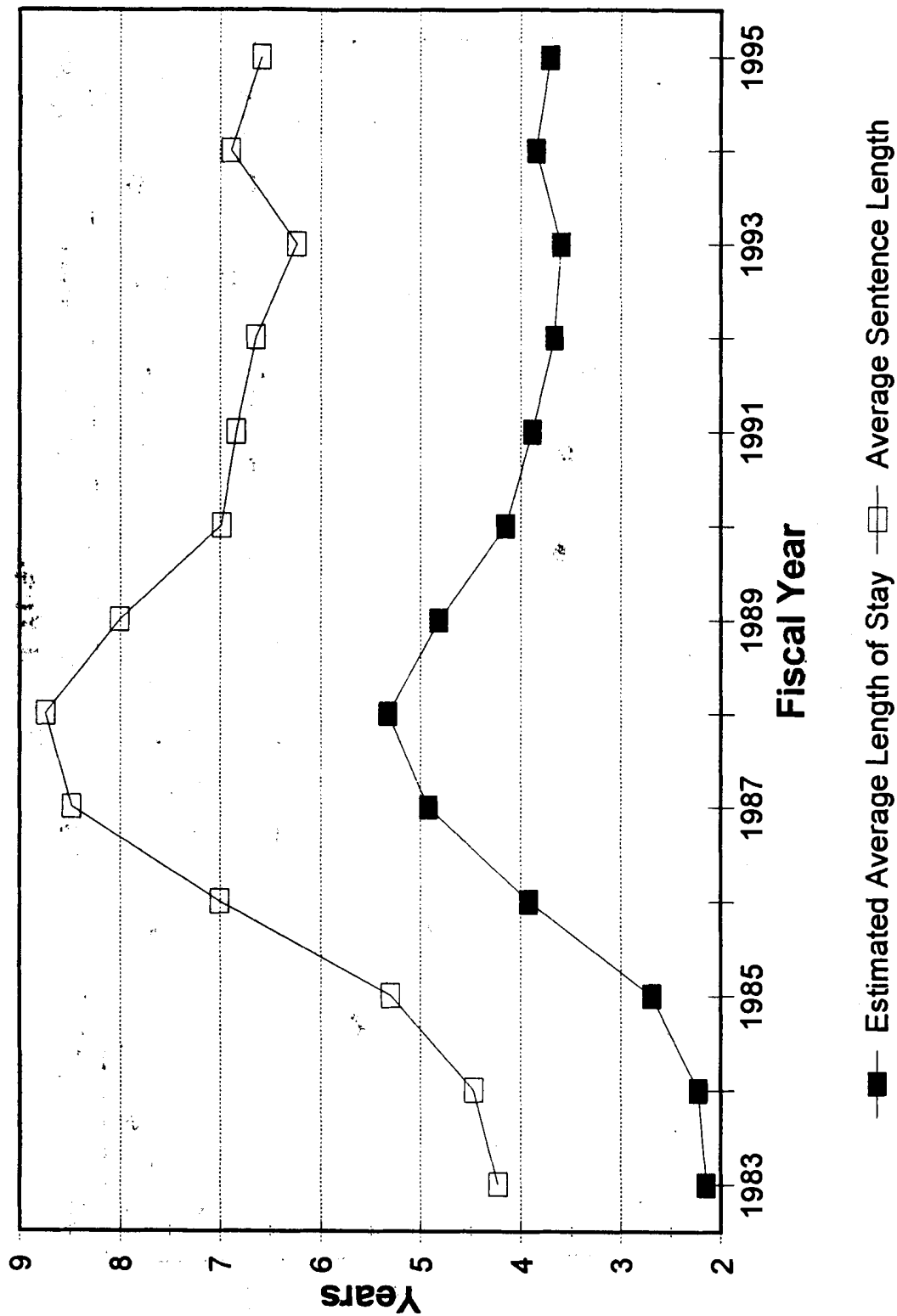
### **Data Considerations**

Table 12.3 presents the average sentence length and estimated average length of stay by crime type for those inmates committed to the DOC during FY 1994-95. The DOC currently only disaggregates criminal attempts, conspiracies, and solicitations into violent and non-violent categories rather than into specific crimes. Similarly, controlled substance abuse offenses are only disaggregated by felony class.

Average sentence length for felony classes and specific crimes was calculated from DOC data on the sentence lengths of all inmates committed to the DOC for new crimes during each fiscal year. While average length of stay is a fairly simple concept, it is impossible to precisely calculate the measure until all inmates who have entered the DOC in a given year are released. Therefore, the reported average length of stay figures are estimates based on the sentence length of commitments, an anticipated average amount of earned time, and the amount of time beyond a parole eligibility date that the parole board is expected to keep a felon in prison. The lengths of stay by crime were estimated by applying the average percent of sentence served, calculated for a broad class of offenders, to each specific crime. For example, non-violent class 3 felons are estimated to serve 47 percent of their sentence on average. To estimate average length of stay for each crime, this 47 percent estimate was then applied to the average sentence length of various class 3 non-violent crimes, such as controlled substance abuse offenses and second-degree burglary.

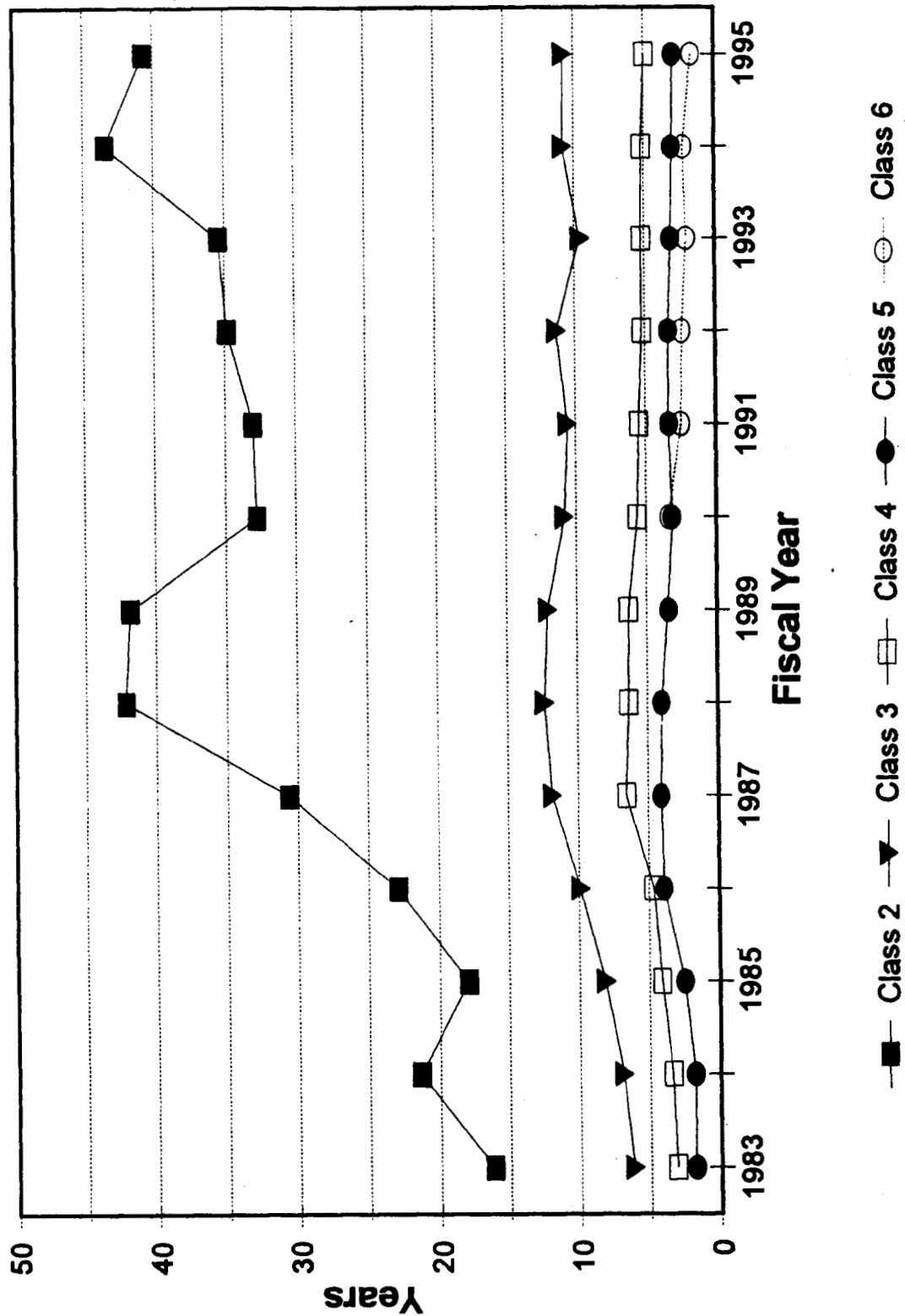
These estimates do not take into account the time inmates spend reincarcerated for technical violations of parole. The estimates also do not consider the effects of law changes applied retroactively that impact lengths of stay, such as House Bill 90-1327. This law change doubled the amount of earned time an offender is eligible to receive from five days per month to ten days and was applied retroactively to the existing inmate population as well as new commitments.

**Graph 12.1: Total DOC Commitments  
Average Sentence Length and Average Length of Stay**

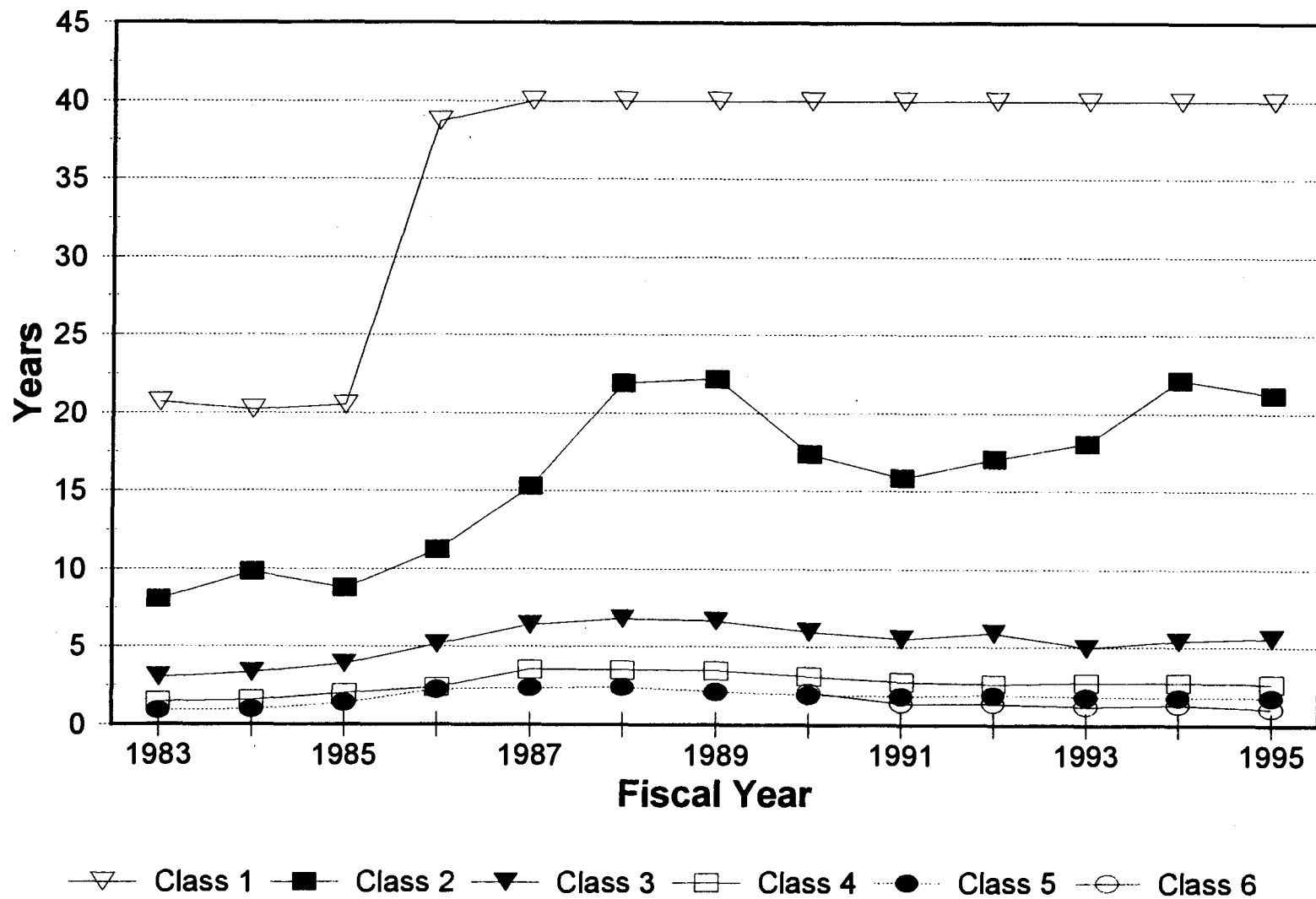




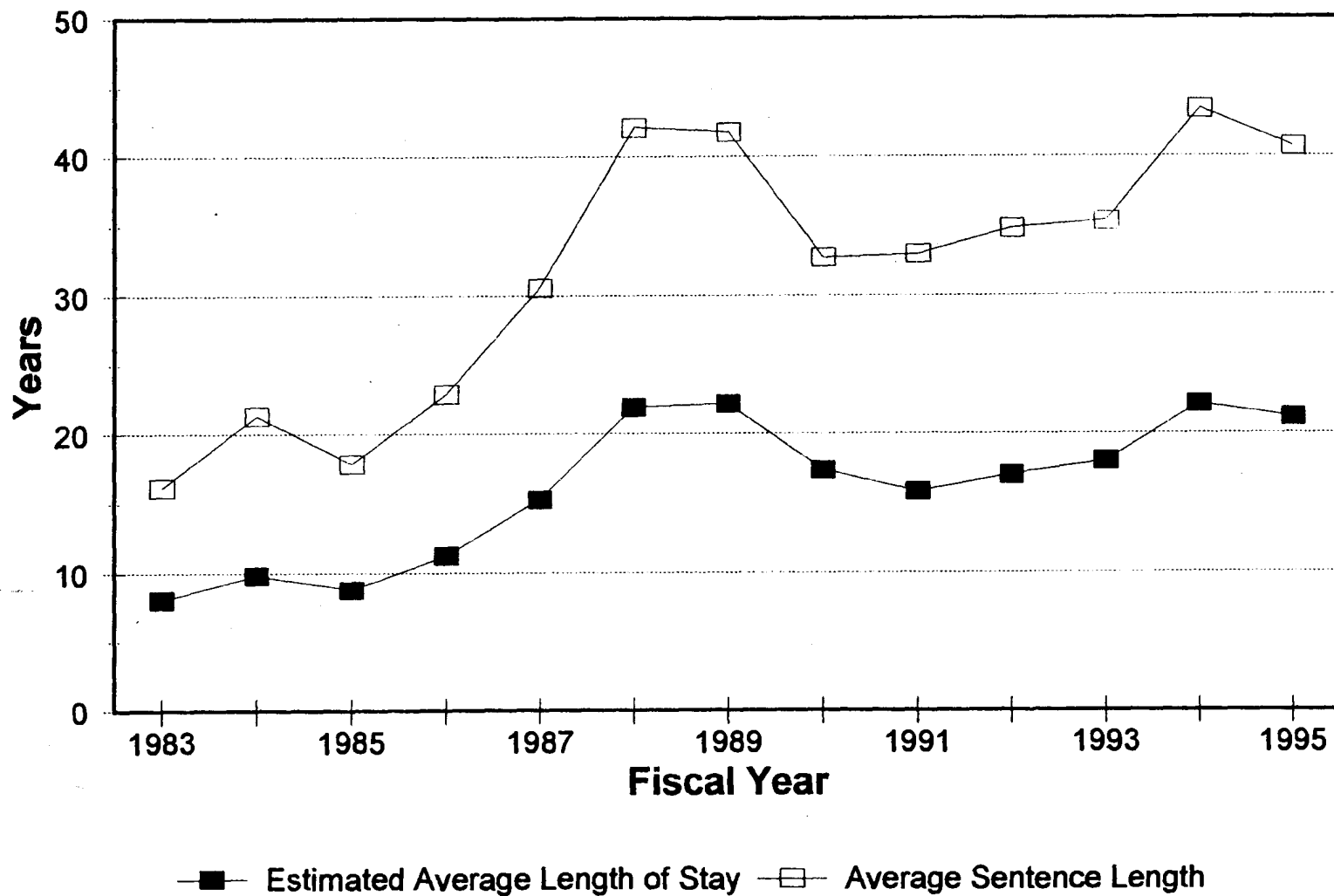
**Graph 12.2: Average Sentence Length of Incoming DOC Commitments**



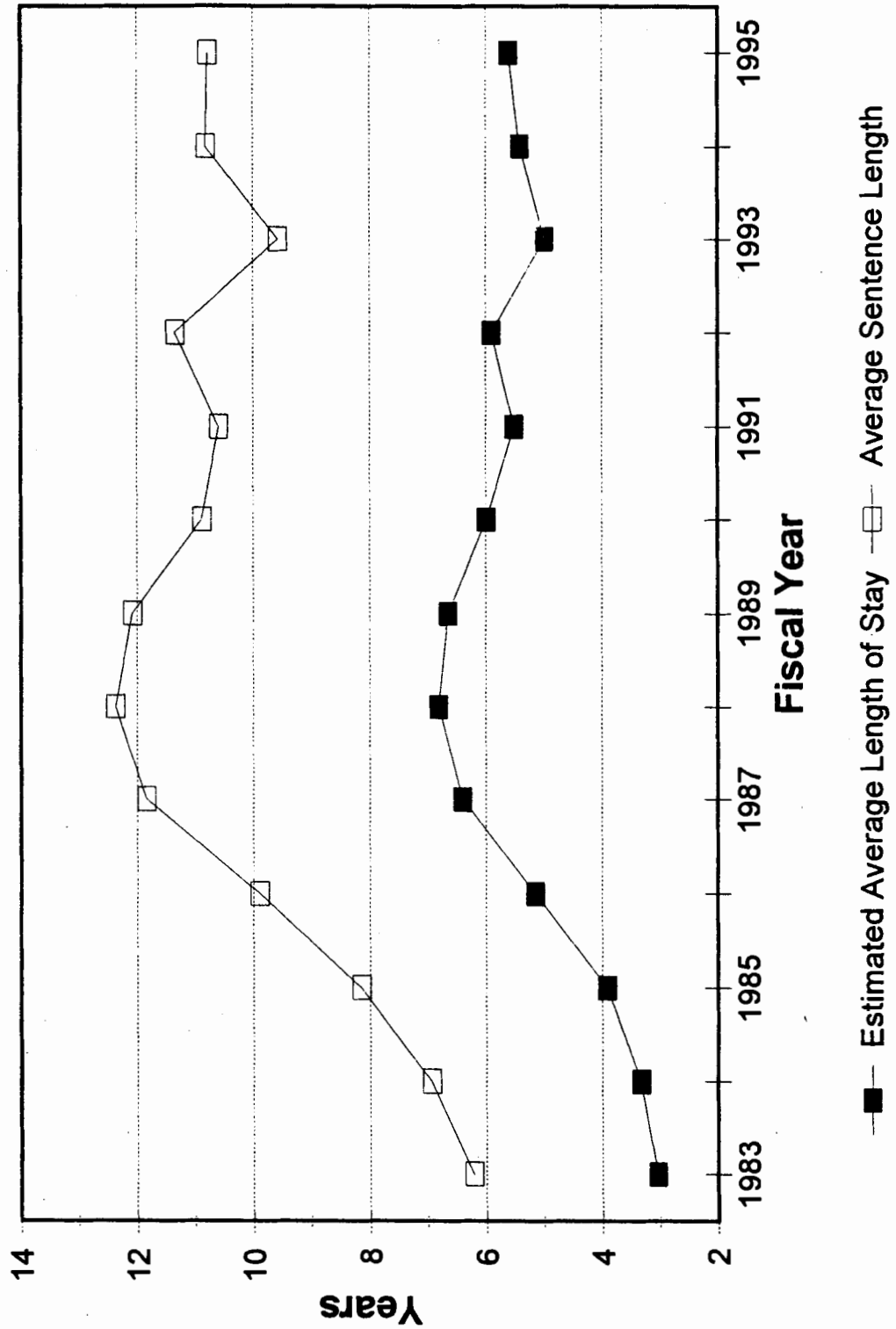
**Graph 12.3: Estimated Average Length of Stay of Incoming DOC Commitments**



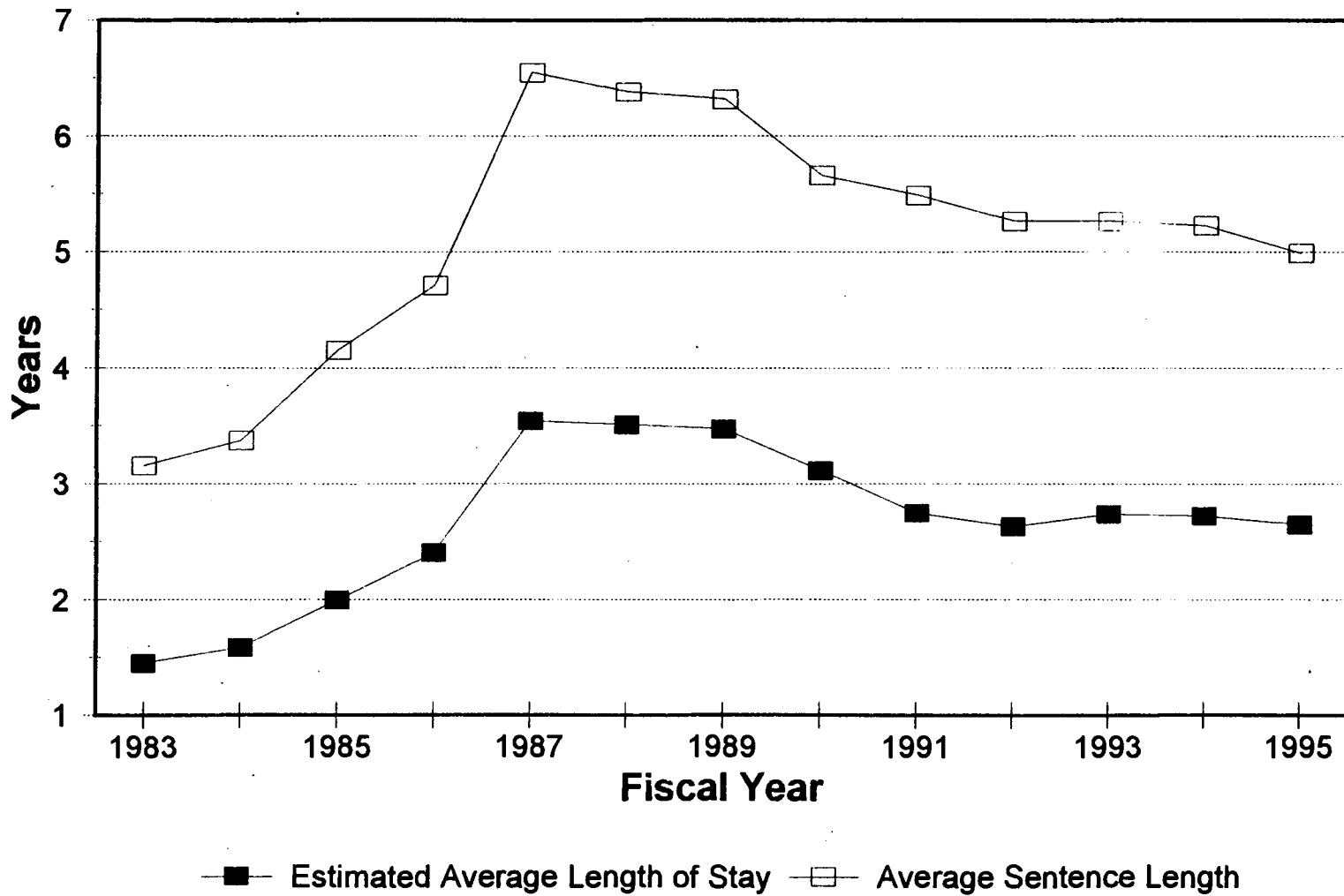
**Graph 12.4: Felony Class 2:  
Average Sentence Length and Average Length of Stay**



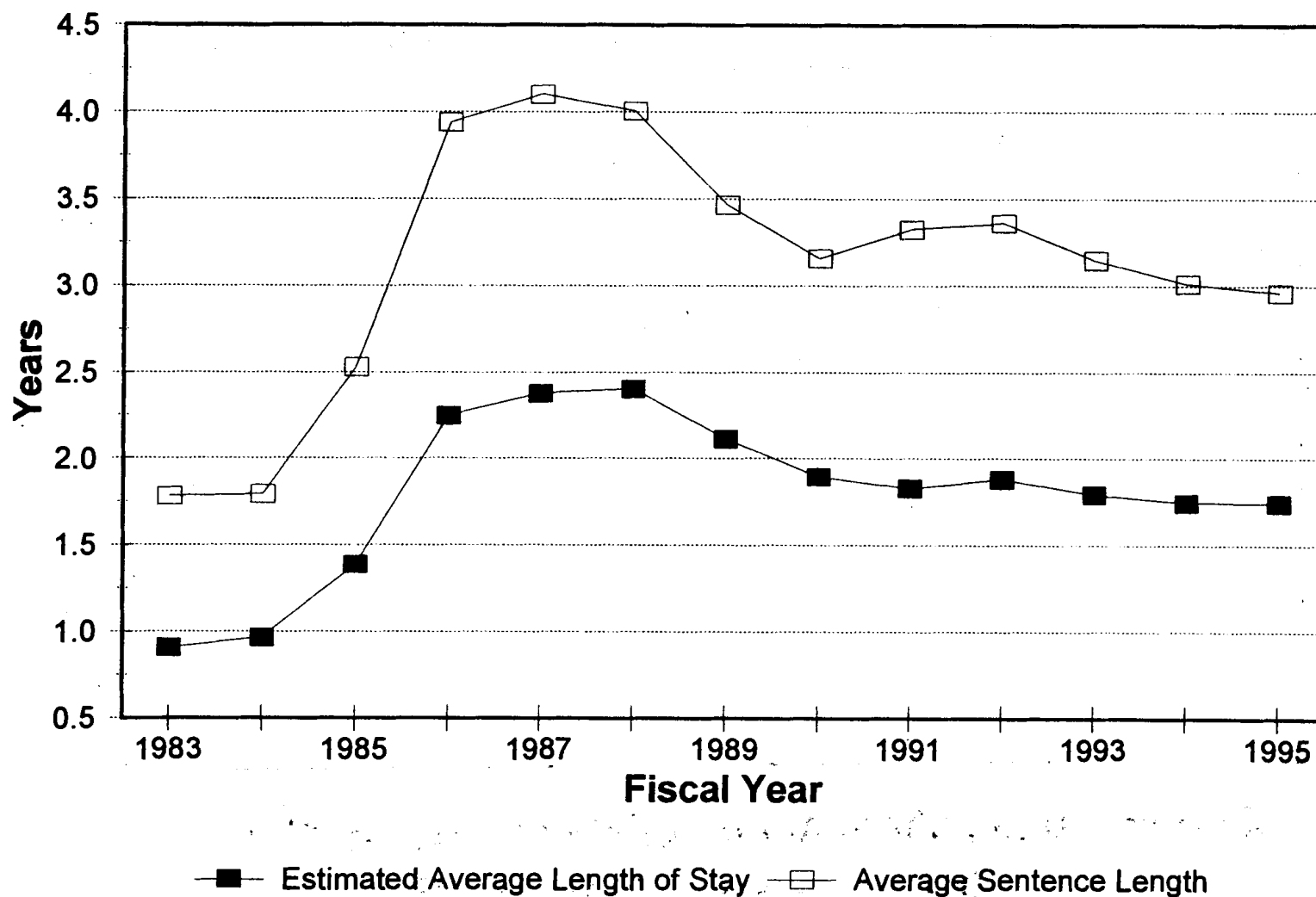
**Graph 12.5: Felony Class 3:  
Average Sentence Length and Average Length of Stay**



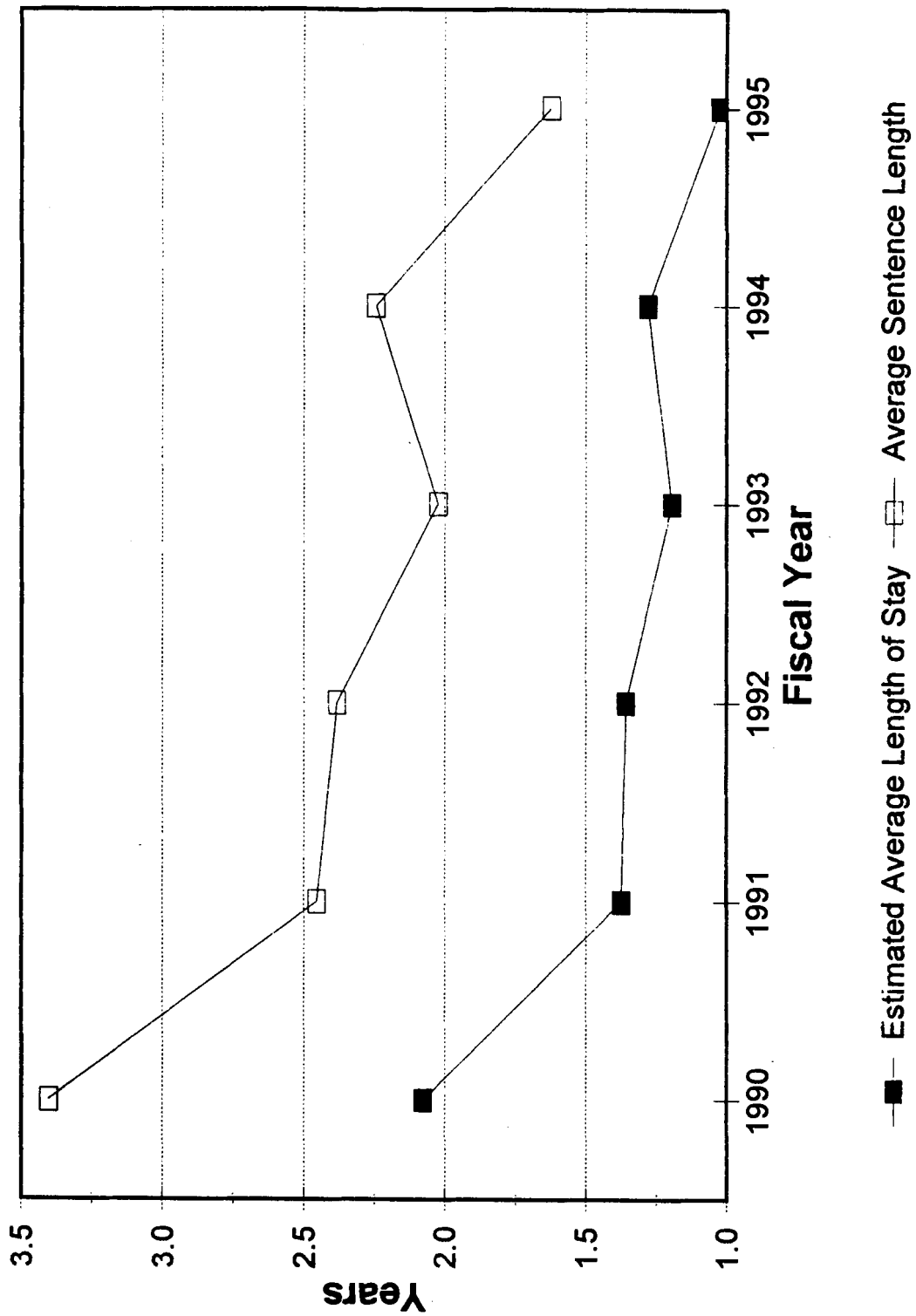
**Graph 12.6: Felony Class 4:  
Average Sentence Length and Average Length of Stay**



**Graph 12.7: Felony Class 5:  
Average Sentence Length and Average Length of Stay**



**Graph 12.8: Felony Class 6:  
Average Sentence Length and Average Length of Stay**



**Table 12.3: Average Sentence Length and Estimated Average Length of Stay  
of DOC Commitments (April 1994 — March 1995) by Crime Type**

Statute Citation	Felony Class	Crime Description	Number of Commitments	Average Sentence Length (Years)	Estimated Average Length of Stay (Years)
18-3-102	1	1st Degree Murder	33	Life	40.0
18-3-103	2	2nd Degree Murder	32	42.6	21.7
18-3-104	3	Manslaughter	6	15.9	8.3
18-3-104	4	Manslaughter	13	10.0	5.5
18-3-105	5	Criminally Negligent Homicide	8	3.4	2.2
18-3-106	3	Vehicular Homicide — DUI	13	8.5	4.4
18-3-106	4	Vehicular Homicide	14	4.9	2.7
18-3-202	3	1st Degree Assault	33	20.9	10.8
18-3-202	5	1st Degree Assault	16	3.4	2.1
18-3-203	4	2nd Degree Assault	136	6.7	3.7
18-3-204	6	2nd Degree Assault	22	1.7	-1.1
18-3-205	4	Vehicular Assault — DUI	9	5.7	3.1
18-3-205	5	Vehicular Assault	17	2.7	1.7
18-3-206	5	Felony Menacing	155	3.1	2.0
18-3-209	3	2nd Degree Assault on Elderly or Handicapped	1	18.0	9.4
18-3-209	5	3rd Degree Assault on Elderly or Handicapped	7	2.9	1.8
18-3-302	2	2nd Degree Kidnapping	22	60.8	31.0
18-3-302	3	2nd Degree Kidnapping	4	19.5	10.1
18-3-302	4	2nd Degree Kidnapping	8	6.3	3.5
18-3-304	5	Violation of Custody	5	9.6	5.5
18-3-305	4	Enticement of a Child	2	4.0	2.6
18-3-402	2	1st Degree Sexual Assault — Force	7	25.1	14.3
18-3-402	3	1st Degree Sexual Assault	26	15.2	9.6
18-3-403	4	2nd Degree Sexual Assault	23	6.5	4.3
18-3-404	4	3rd Degree Sexual Assault — Force	4	6.3	4.1
18-3-405	3	Sexual Assault on a Child	86	15.2	9.6
18-3-405	4	Sexual Assault on a Child	96	6.2	4.1
18-3-412	3	Habitual Sex Offender Against Children	2	15.0	9.5
18-4-102	3	1st Degree Arson	3	8.7	4.5
18-4-103	5	2nd Degree Arson	2	7.0	4.4
18-4-202	3	1st Degree Burglary	15	9.8	5.1
18-4-203	3	2nd Degree Burglary (Dwelling)	117	9.5	4.5
18-4-203	4	2nd Degree Burglary (Non-Dwelling)	142	5.0	2.6
18-4-204	5	3rd Degree Burglary	8	2.8	1.6
18-4-205	5	Possession of Burglary Tools	4	2.5	1.4
18-4-205	6	Possession of Burglary Tools	1	1.3	0.8
18-4-301	4	Robbery	65	4.9	2.7
18-4-302	3	Aggravated Robbery	58	22.6	11.8
18-4-304	3	Robbery of the Elderly or Handicapped	3	14.3	7.5
18-4-401	3	Theft (Over \$10,000)	13	9.1	4.3
18-4-401	4	Theft (\$300 to \$10,000)	217	4.8	2.4



Table 12.3 (continued)

Statute Citation	Felony Class	Crime Description	Number of Commitments	Average Sentence Length (Years)	Estimated Average Length of Stay (Years)
18-4-401	5	Theft from a Person	24	2.9	1.6
18-4-402	3	Theft of Rental Property (Over \$10,000)	2	4.5	2.1
18-4-402	5	Theft of Rental Property (\$200 to \$10,000)	3	4.0	2.3
18-4-409	3	Aggravated Motor Vehicle Theft (Over \$10,000)	11	7.5	3.5
18-4-409	4	Aggravated Motor Vehicle Theft (Under \$10,000)	49	4.5	2.3
18-4-410	3	Theft by Receiving (Over \$10,000)	4	4.5	2.1
18-4-410	4	Theft by Receiving (\$300 to \$10,000)	39	4.5	2.3
18-4-501	4	Criminal Mischief	34	3.6	1.8
18-4-502	5	1st Degree Criminal Trespass	130	2.5	1.4
18-4-503	4	2nd Degree Criminal Trespass on Farm Land	1	4.0	2.0
18-5-102	4	1st Degree Forgery	7	4.2	2.4
18-5-102	5	1st Degree Forgery	24	2.6	1.5
18-5-103	5	2nd Degree Forgery	33	3.4	1.9
18-5-105	6	Possession of a 1st Degree Forged Instrument	2	1.5	0.9
18-5-109	6	Possession of a Forgery Device	1	1.5	0.9
18-5-113	6	Criminal Impersonation	44	1.6	1.0
18-5-205	6	Fraud by Check	31	3.6	2.3
18-5-206	5	Defrauding a Secured Creditor	1	2.0	1.1
18-5-604	5	Distribution of an Imitation Controlled Substance	1	2.0	1.1
18-5-702	5	Unauthorized Use of a Financial Transaction Device	2	5.0	2.9
18-5-703	5	Criminal Possession of a Financial Transaction Device	1	3.0	1.7
18-6-301	3	Aggravated Incest	10	10.8	6.8
18-6-301	4	Incest	4	5.0	3.3
18-6-401	2	Child Abuse Resulting in Death	6	25.8	13.2
18-6-401	3	Child Abuse with Serious Injury	8	18.3	9.5
18-6-401	4	Child Abuse	10	5.4	3.0
18-6-701	4	Contributing to the Delinquency of a Minor	9	3.9	2.6
18-6.5-103	3	Robbery of an At-Risk Adult	2	6.5	3.4
18-6.5-103	3	Theft from an At-Risk Adult (Over \$400)	1	18.0	8.5
18-6.5-103	5	Theft from an At-Risk Adult (Under \$400)	2	2.8	1.6
18-6.5-103	4	Theft from the Person of an At-Risk Adult	1	3.0	1.5
18-6.5-103	6	Criminal Negligence Toward an At-Risk Adult	1	0.9	0.6
18-7-201.7	5	Prostitution with Knowledge of HIV Infection	1	5.0	3.5
18-7-203	5	Pandering for Prostitution	1	4.0	2.8
18-8-116	6	Disarming a Police Officer (Attempt)	1	2.0	1.3
18-8-203	4	1st Degree Introduction of Contraband	6	4.8	2.5
18-8-204	6	2nd Degree Introduction of Contraband	1	1.3	0.4
18-8-204	6	1st Degree Possession of Contraband	7	1.4	0.9
18-8-206	2	Assault During an Escape Attempt	2	24.0	12.2
18-8-208	3	Escape — Convicted Felon	17	6.9	3.2
18-8-208	4	(Attempt)	73	4.4	2.2

Table 12.3 (continued)

Statute Citation	Felony Class	Crime Description	Number of Commitments	Average Sentence Length (Years)	Estimated Average Length of Stay (Years)
18-8-208	4	Escape — Pending Felony	13	4.5	2.3
18-8-208	5	(Attempt)	102	3.2	1.9
18-8-211	3	Participating in a Riot in a Detention Facility (Weapon)	1	8.0	4.2
18-8-211	5	Participating in a Riot in a Detention Facility (No Weapon)	1	1.5	0.9
18-8-212	6	Violation of Bail Bond	4	1.6	1.0
18-8-704	4	Intimidating a Victim	4	5.5	2.3
18-8-706	3	Retaliation Against a Witness or Victim	1	18.0	9.4
18-9-104	4	Engaging in a Riot	1	5.0	2.8
18-9-116.5	4	Vehicular Eluding — Injury Resulting	3	4.3	2.2
18-9-116.5	5	Vehicular Eluding — No Injury	22	2.5	1.4
18-9-310	6	Unlawful Use of Information	1	1.5	0.9
18-12-102	5	Possession of an Illegal Weapon	4	2.9	1.6
18-12-107	5	Possession of an Illegal Weapon — 2nd Offense	2	2.3	1.3
18-12-107.5	5	Illegal Discharge of a Firearm	2	3.5	2.0
18-12-108	4	Possession of a Weapon by a Previous Offender — Repeat	1	8.0	4.1
18-12-108	5	Possession of a Weapon by a Previous Offender	13	2.8	1.6
18-12-108.5	5	Illegal Possession of a Handgun by a Juvenile	1	1.0	0.6
18-12-109	4	Possession or Use of Explosives	2	4.0	2.0
18-16-108	6	Fraud of Valuable Articles	2	2.0	1.3
18-17-102	2	Crime Control Act	5	20.4	9.2
18-18-105	2	Controlled Substance Abuse Offenses	6	26.9	12.1
18-18-105	3	Controlled Substance Abuse Offenses	265	6.2	2.9
18-18-105	4	Controlled Substance Abuse Offenses	160	4.0	2.0
18-18-105	5	Controlled Substance Abuse Offenses	196	2.8	1.6
18-18-106	3	Marijuana Offenses	2	5.5	2.8
18-18-106	4	Marijuana Offenses	48	4.2	2.1
18-18-106	5	Marijuana Offenses	18	2.5	1.4
18-18-415	5	Obtaining a Controlled Substance through Fraud	3	2.2	1.2
12-56-103	5	Giving False Information to a Pawnbroker	32	3.5	2.0
14-9-121	5	Ethnic Intimidation	1	3.0	1.7
16-13-101	1	Habitual Criminal — Life	2	Life	40.0
16-13-101	2	Habitual Criminal — Little	25	39.4	17.7
29-22-108	5	Hazardous Substance Offenses	1	3.0	1.7
35-43-128	4	Theft of Animals	1	2.0	1.0
42-2-206	6	Driving After Revocation Prohibited	140	1.6	1.0
		Hit and Run Accident Involving Death	1	10.5	5.8

**Table 12.3 (continued)**

<b>Statute Citation</b>	<b>Felony Class</b>	<b>Crime Description</b>	<b>Number of Commitments</b>	<b>Average Sentence Length (Years)</b>	<b>Estimated Average Length of Stay (Years)</b>
42-5-104	5	Theft of Auto Parts	1	2.0	1.1
	2	Criminal Attempt at Violent Class 1 Felony	7	40.0	20.4
	3	Criminal Attempt at Violent Class 2 Felony	11	9.5	5.0
	4	Criminal Attempt at Violent Class 3 Felony	58	5.4	3.0
	5	Criminal Attempt at Violent Class 4 Felony	84	3.3	1.9
	6	Criminal Attempt at Violent Class 5 Felony	4	1.9	1.2
	2	Criminal Conspiracy at Violent Class 1 Felony	5	31.5	16.1
	3	Criminal Conspiracy at Violent Class 2 Felony	3	18.0	9.4
	4	Criminal Conspiracy at Violent Class 3 Felony	15	4.7	2.6
	5	Criminal Conspiracy at Violent Class 4 Felony	6	3.1	1.8
	6	Criminal Conspiracy at Violent Class 5 Felony	2	1.4	0.9
	4	Criminal Accessory to Violent Class 3 Felony	1	9.0	5.0
	5	Criminal Accessory to Violent Class 4 Felony	3	3.1	1.8
	3	Criminal Solicitation at Violent Class 2 Felony	1	10.0	5.2
	4	Criminal Solicitation at Violent Class 3 Felony	2	5.5	3.0
	5	Criminal Solicitation at Violent Class 4 Felony	1	3.0	1.7
	3	Criminal Attempt at Non-Violent Class 2 Felony	4	5.5	2.6
	4	Criminal Attempt at Non-Violent Class 3 Felony	95	4.2	2.2
	5	Criminal Attempt at Non-Violent Class 4 Felony	154	2.9	1.7
	6	Criminal Attempt at Non-Violent Class 5 Felony	113	1.6	1.0
	3	Criminal Conspiracy at Non-Violent Class 2 Felony	3	5.7	2.7
	4	Criminal Conspiracy at Non-Violent Class 3 Felony	9	3.9	2.0
	5	Criminal Conspiracy at Non-Violent Class 4 Felony	23	2.4	1.4
	6	Criminal Conspiracy at Non-Violent Class 5 Felony	12	1.6	1.0
	5	Criminal Accessory to Non-Violent Felony	3	2.7	1.5
	4	Criminal Solicitation at Non-Violent Class 3 Felony	1	4.0	2.0
<b>Totals Admissions for New Crimes</b>			<b>3,762</b>	<b>6.6</b>	<b>3.7</b>

## **Chapter 13 — Legislative Council Staff's Seven-Year Department of Corrections Population Projections**

The total Department of Corrections (DOC) jurisdictional population is expected to rise 49.0 percent by the year 2002: from 10,849 on October 31, 1995, to 16,169 by July 1, 2002, as shown in Graph 13.1 and Table 13.1. We expect the male jurisdictional population to rise 49.4 percent (from 10,143 to 15,151), and the female population to increase 44.2 percent, (from 706 to 1,018) during that time period. The difference in the rates of increase is because males and females are committed for somewhat different types of crimes, and thus experience different average lengths of stay in the DOC, and have different rates of reincarceration for parole violations.

We expect the total parole population to rise 206.0 percent during this period: from 2,067 on October 31, 1995, to 6,325 by July 1, 2002, as shown in Graph 13.4. The male parole population will rise 201.2 percent (from 1,844 to 5,555) and the female parole population will increase 245.3 percent (from 223 to 770) during the forecast period.

As of October 31, 1995, the total DOC jurisdictional population was 10,849, which was less than 0.1 percent (4 inmates) below our July 1995 projection for that date. The parole population stood at 2,067, which was 3.0 percent (61 parolees) above the July 1995 estimate for that date. We believe the disparity in the parole population is primarily due to the State Board of Parole releasing somewhat more inmates to parole between July and October than we had anticipated.

Table 13.1 shows the updated Legislative Council Staff prison and parole population projections, while Graphs 13.1 through 13.4 compare the July 1995 projections with the current projections. Our current projections are 114 inmates lower than the July 1995 estimate for January 1, 2000. The forecast calls for the DOC population to grow slightly less rapidly than anticipated in July during FY 1995-96, FY 1996-97, and FY 1997-98 due to a higher level of discretionary releases to parole than previously forecast. This results in shorter average lengths of stay for prison inmates and is discussed in greater detail in the length of stay section of this memorandum. Meanwhile, the current estimates of DOC inmates are 513 lower than our November 1994 projections, and the vast majority of this decrease is attributable to law changes passed in the 1995 session. This includes the doubling of funding for the Intensive Supervision Probation program, which was intended to divert non-violent offenders from prison incarceration. The General Assembly also passed House Bill 95-1087 allowing non-violent offenders to receive earned time while serving their mandatory parole sentences. It is estimated that this change will reduce the number of reincarcerated parole violators as well as the parole population. Such law changes were already taken into account in considering the need for new prison facilities, reducing the bed space need by approximately 400.

We expect the most rapid rate of prison population growth (an 8.2 percent annual increase) to occur in FY 1997-98, when several new facilities are scheduled for completion, temporarily reducing the constraining impact of current capacity limitations. The rapid rise in the number of technical parole violators, because mandatory parole will greatly increase the parole population, will also contribute to this high rate of growth. During FY 1999-00 through FY 2001-02 the prison population growth rate is again expected to slow, as Colorado's population growth rate decelerates and the parole population and the number of technical parole violators grow more slowly.

Table 13.2 illustrates the past and projected growth of the DOC population in both numerical and percentage terms. The projected annual growth rate in the DOC population from July 1, 1995, through July 1, 2002, is somewhat lower than its trend of the last several years, representing a 6.1 percent annual compound rate of growth. This compares with a 6.8 percent average compound growth rate exhibited from 1990 to 1995 and a 16.1 percent annual compound rate of growth that occurred between 1985 and 1990. The high growth in the late 1980s resulted primarily from House Bill 85-1320, which doubled the maximum of the presumptive sentencing range for all felony classes and greatly increased lengths of stay. A second contributing factor to the late-1980s growth was the so-called "war on drugs," which increased the annual number of admissions to the DOC for controlled substance abuse offenses from 110 in

FY 1985-86 to 383 in FY 1989-90, a 36.6 percent average annual growth rate. Since then, the number of drug-related commitments has grown much more slowly, reaching 639 in FY 1994-95, representing a 10.8 percent average annual increase. The reason for the anticipated slower growth rate during the forecast horizon is primarily the result of law changes affecting non-violent offenders.

The following analysis explains the factors driving these forecasts as they relate to:

- 1995 Legislative Session Law Changes
- New Commitments
- Length of Stay
- Parole Population and Parole Violators

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### **1995 LEGISLATIVE SESSION LAW CHANGES**

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Legislation enacted in 1995 by the General Assembly will have a significant impact on the prison population. Within this context, pertinent legislation is discussed as follows. Several other laws passed that will have an impact on the DOC population, but are not discussed herein because of their minor impact.

***House Bill 95-1064, Concerning Structured Transitional Programs for Graduates of the Regimented Inmate Training Program.*** This bill made several changes regarding the treatment of graduates of the DOC Boot Camp program. Currently, there is a 1.2-month average post-graduation stay in the boot camp because the courts do not immediately act upon an inmate's request for reconsideration of his sentence upon completion of the program. The law now requires the court that sentenced an offender to give precedence in its caseload to reconsidering the boot camp graduate's sentence. This legislation also created an Intensive Supervision Program for boot camp graduates to help reduce their rate of recidivism. Due to accelerated consideration by the courts and reduced rates of recidivism, Legislative Council Staff estimated a reduction of about 40 offenders in the average daily population (ADP).

***House Bill 95-1087, Concerning Revisions to the Body of Law That Governs the Administration of the Department of Corrections.*** This bill impacts the prison population in two ways. First, it allows prisoners convicted of offenses defined as non-violent, committed on or after July 1, 1993, to be eligible to receive earned time while on parole. Secondly, it allows non-violent offenders convicted of crimes committed prior to July 1, 1993, who are reincarcerated for parole violations to receive credit against their sentences for time spent on parole. This new legislation is expected to result in a parole population that is 350 lower by FY 1999-00 in current projections than in the November 1994 forecast. We also estimate that House Bill 95-1087 will

reduce the population of parole violators in prison by approximately 250 by FY 1999-00, relative to what it would be had the change not been made.

For purposes of receiving earned time while on parole, non-violent crimes were defined as all crimes other than crimes of violence (listed in Section 16-11-309 (2), C.R.S.), felony offenses committed against children, manslaughter, simple robbery, second degree burglary, and felony theft under Section 18-4-401 (2) (c), (2) (d), or (5), C.R.S. We estimate that 54 percent of DOC commitments meet this definition of non-violent. This provision reduces the mandatory length of stay on parole by approximately 25 percent for those inmates whose offenses are defined as non-violent. The parole population is still projected to grow very rapidly through FY 1999-00, however, reflecting the mandatory period of parole that took effect for inmates convicted of crimes committed after July 1, 1993.

House Bill 95-1087 also reduced the projected growth in the number of technical parole violators and parole violators with new crimes going to prison. Shorter lengths of stay on parole translate into a smaller parole population than otherwise would be the case and, therefore, fewer people returning to prison for violating the terms of their parole. Shorter parole lengths of stay also have the effect of slightly reducing the average length of stay of inmates reincarcerated for parole violations since they will reach the end of their parole sentences somewhat earlier.

The law's provisions dealing with reincarcerated parole violators receiving credit for parole time will reduce the average length of stay for parole violators convicted of non-violent crimes committed before July 1, 1993. This is most easily explained through a simple example. A non-violent offender with a four-year sentence is released to parole after serving two years of his sentence and will serve the remaining two years on parole. After being on parole for one year, the offender commits a technical violation and is reincarcerated. Prior to House Bill 95-1087, the time this offender spent on parole was not credited against his sentence and he could be reincarcerated for up to two more years. Because of House Bill 95-1087, this offender's maximum period of reincarceration would be reduced to one year.

The DOC estimates that approximately 150 inmates were discharged in June and July because of this law change. This change is one of the primary reasons these DOC population projections are lower than the November 1994 Legislative Council Staff projections. The impact of this change, however, gradually diminishes over the forecast period as the proportion of the parole violator population subject to the provisions of House Bill 93-1302, mandatory parole, increases.

***House Bill 95-1352, Concerning Measures to Improve the Systems for the Confinement of Offenders, Regardless of Age, and Making Appropriations Therefor.*** This legislation made several significant changes that impact the size of the DOC jurisdictional population. The bill expands the Judicial Department's Intensive Supervision Probation (ISP) program by 750 slots in an attempt to divert some convicted felons towards alternative sentences to prison. It is uncertain to what degree offenders sentenced to the ISP program will be diverted away from prison rather than



from community corrections or regular probation. The projections allow for some so-called "net widening," the tendency for convicts to be given more restrictive placements when such correctional alternatives are expanded (ISP instead of regular probation, for instance), and for some regressions back to prison among those initially placed on ISP. Legislative Council Staff and the Judicial Department estimated the 750-slot ISP expansion would reduce the prison bed needs by 280 inmates by FY 1999-00.

The bill also allows the DOC to place inmates in an Intensive Supervision Program (which is different from the Intensive Supervision Probation program noted previously) operated by the DOC if they have been referred to and rejected by local community corrections boards. The offenders may only be placed in the program under the condition that such programs not increase the overall vacancy rates in the community corrections program. From a fiscal standpoint, an inmate placed in prison is far more costly than one placed in the Intensive Supervision Program. Greater use of DOC's Intensive Supervision Program potentially reduces the DOC prison bed needs, although it does not result in a reduction in the projected DOC jurisdictional population, since those inmates placed in the DOC's Intensive Supervision Program remain part of the DOC jurisdictional population. Reduced bed needs will be dependent upon the utilization of the program.

House Bill 95-1352 also set forth a number of factors for the court to consider in sentencing a non-violent offender. It requires courts to consider alternatives to prison, such as ISP, community corrections, home detention, community service, and restitution programs. While this legislation does not restrict judges' ability to sentence offenders to prison, it reinforces other existing statutes that encourage the sentencing of non-violent offenders to alternatives to prison. In conjunction with the expansion of ISP, this may result in a small reduction in the number of non-violent offenders sentenced to prison.

House Bill 95-1352 also authorizes the construction of new prison facilities and the expansion of existing DOC facilities to accommodate projected prison bed needs. As discussed in the section covering influences on admissions, our models indicate that additional capacity contributes to somewhat more admissions to prison than might otherwise be the case, thus, indirectly influencing the total prison population.

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## **NEW COMMITMENTS**

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### **Influences on the Number of New Commitments**

Annual new commitments to the Department of Corrections (DOC) have risen rapidly over the last 13 years. Total new commitments have varied significantly from year to year, and the distribution of crimes among these new admissions has varied as well. In order to project the number of future admissions to DOC we analyzed admissions over the last 13 years to determine how they varied and with what factors



they varied. New commitments were modeled using linear regression analysis, a technique which allows an examination of the statistical relationship among numerous variables. New admissions were broken into 15 crime types, which were then looked at separately. We analyzed a wide variety of factors that theoretically might have a statistical relationship with admissions to the DOC. Factors that might exhibit such a relationship include, but are not limited to: population, population by age group, population living in poverty, migration, employment, unemployment rate and unemployment claims, average wages and salaries, dropout rates, election-year effects, operational capacity, changes to capacity, jail backlog, reported crime rates, arrest rates, felony filings, and sentencing alternatives such as funded community corrections diversion placements.

There are two main components affecting the number of people being sent to prison. First is the total amount and type of crime taking place. Second is the probability of a crime resulting in a prison sentence. Fluctuations in these factors help explain why changes in official crime statistics often do not correspond with changes in felony convictions and prison commitments. For example, it is estimated nationally that only 39 percent of total index crimes (homicide, rape, robbery, assault, burglary, theft, and motor vehicle theft) are reported to the police. Many crimes that are reported do not result in an arrest. Similarly, arrests for felony crimes do not always result in felony convictions. Once someone is convicted of a crime, prison is only one of several alternative placements to which an offender may be sentenced. The result is that only a small percentage of the crimes committed result in a prison sentence. Changes in reporting rates of crime, arrest rates, conviction rates, and the use of these various sentencing alternatives, as well as crime rates, have varied over time. Thus, somewhat paradoxically, prison admissions sometimes do not move in same direction as reported crime rates, the ultimate cause of people being sent to prison. For example, official statistics show index crimes declining in Colorado, yet felony court cases and admissions to prison are rising at a rapid clip. Variation in the following factors was found to explain most of the year-to-year variation in new commitments:

***Population.*** Other things being equal, a larger population results in a greater total number of crimes and prison commitments. As Colorado's population is projected to continue to grow, we expect this to contribute to an increase in the total number of new admissions to prison. Population growth rates are expected to slow, however, resulting in somewhat slower projected admissions growth, particularly in FY 1999-00 and beyond.

***Number of people with serious prior criminal histories in the population.*** The number of people sent to prison is not only determined by the amount and type of crime taking place, but also by the criminal history profiles of those committing the crimes. Except for the most serious crimes, which usually involve mandatory prison sentences, the likelihood of a first time offender being sent to prison for a crime is low, even for many of the more serious class 3 felonies. Meanwhile, someone who has three or four prior felony convictions, several prior probation sentences, or a previous prison commitment is likely to be sentenced to prison for conviction of a class 5 or class 6 felony. The rapid growth in the number of felony convictions, probation placements,

and prison commitments over the last decade has created a large and growing group of people in society with serious criminal histories and prior correctional supervisions who are at a much higher risk of being placed in prison if they reoffend than first- or second-time offenders.

***Sentencing alternatives.*** Although prison commitments have increased since 1989, they have not grown as rapidly as overall felony convictions. As a result, the proportion of convicted felons sentenced to prison declined from 40.2 percent in the first six months of 1989 to 25.3 percent in the first six months of 1995. One of the factors that contributed to this decline has been the expansion of sentencing alternatives such as community corrections and Intensive Supervision Probation (ISP) programs. The general consensus among several judges to whom we talked was that many of the offenders served in high supervision alternatives such as community corrections and ISP, are people they might otherwise have placed in prison had such sentencing alternatives not been available. The sentiment was mixed, however, on whether the addition of 750 ISP slots in House Bill 95-1352 would divert an appreciable number of additional offenders away from prison, confirming our belief that our original estimate of a 280 ADP reduction to the DOC population resulting from the 750 additional ISP slots is fairly realistic.

***Capacity.*** Our November 1994 and July 1995 projections noted the relationship between the change in prison capacity and the total number of prison admissions. Historically, large capacity additions have been followed by significant increases in new commitments, while periods when no new prison beds were added were followed by stable or small declines in admissions. Capacity is a constraint on the size of the prison population. The number of convicts who could potentially be incarcerated is significantly greater than the number actually sentenced to the DOC. Over the last several months we have conducted in-depth research on capacity, the jail backlog, and prison commitments using data on court cases obtained from the Colorado District Attorneys' Council (CDAC).

The CDAC court data show that between 1989 and 1995 the percentage of felony convictions sentenced to prison in judicial districts with backlogs of state prison inmates in local jails declined as the size of the backlog rose and increased when the backlog was reduced or eliminated. This relationship was not present in those judicial districts without backlogs due to court orders that require the DOC to transfer new commitments from county jails within 72 hours of sentencing. This disparity suggests that the relationship between prison capacity changes and prison admissions is indirectly influenced through the size of the jail backlog. Admissions rise after new prison space is added because the new DOC capacity reduces the backlog of inmates in county jails, lifting the jail capacity constraint. The data suggest that some courts are less likely to use prison as a sentencing alternative for lower-risk offenders at times when a prison sentence means an offender will spend six months to nine months in an already crowded local jail than when he or she will be admitted immediately to a state prison. However, the four judges with whom we spoke believed capacity constraints were not a factor in their sentencing decisions and did not think other judges were influenced significantly by them either.

Our admissions projections assume that the prison facilities authorized in House Bill 94-1340 and House Bill 95-1352 will be constructed as currently planned, and the use of out-of-state facilities until the new DOC facilities are constructed will keep the jail backlog low through FY 1999-00. We have not assumed the construction of any additional prison capacity beyond FY 1999-00, thus contributing to the slower projected DOC population growth rates in FY 2000-01 and FY 2001-02.

## **PROJECTIONS FOR NEW COMMITMENTS**

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A detailed comparison of Legislative Council Staff's July 1995 and December 1995 projections by admission type for FY 1995-96 through FY 2001-02 is presented in Table 13.3. We are expecting more robust growth in the number of new commitments for new crimes through FY 1999-00 than we forecast in July. The primary reason for this is the very rapid recent rise in felony filings (up 14.4 percent between FY 1993-94 and FY 1994-95) and, consequently, felony convictions and prison commitments. Although we expect a higher number of admissions than we did last July, we also expect reduced lengths of stay, thus accounting for the overall reduction in the DOC population.

### **Summary**

We project total new commitments for new crimes to rise 28.1 percent between FY 1994-95 and FY 2001-02, from 3,382 to 4,332, an annual growth rate of 3.6 percent. This is somewhat higher than the 3.1 percent annualized rate projected last July.

During the first four months of FY 1995-96, there were 1,690 total admissions (422.5 per month) to the DOC. This represents an 8.1 percent increase from the 1,564 admissions (391 per month) during the same four-month period in FY 1994-95. Total admissions include technical parole violators and parole violators with new crimes, as well as new court commitments. July through October FY 1995-96 admissions data disaggregated by admission type are not yet available, but the fact that the population of parole violators in prison has not increased significantly over the last several months suggests that the increase in admissions is primarily due to more new commitments rather than to parole violators. This rapid increase follows a 6.4 percent increase in total admissions between FY 1993-94 and FY 1994-95 (from 4,356 admissions to 4,633 admissions).

Table 13.4 presents our projections for new commitments by type of crime. Commitments by crime type reflect changes in sentencing patterns and plea bargaining as well as changes in the amount of crime taking place. For example, commitments for criminal attempts and conspiracies have grown very rapidly in recent years and are projected to continue to grow at a more rapid rate than total admissions. This reflects changes in plea bargaining practices rather than crime rates. Convictions for criminal attempts and conspiracies usually reflect guilty pleas at least one felony class lower than the charged crime.

Table 13.4 generally shows that recent trends are expected to continue over the next several years. We expect commitments for violent crimes to rise more rapidly than property offenses. We also do not expect admissions for drug offenses to change appreciably relative to overall admissions. The projected increase in violent offenders as a percent of total admissions partially reflects the recent trend toward using limited prison space for those who pose the greatest physical threat to other people. These figures do not include admissions of parole violators with new crimes, which we forecast as a function of the parole population rather than by crime type.

The following points summarize our forecast for new admissions:

- We expect annual new commitments to the DOC to rise 28.1 percent, from 3,382 in FY 1994-95 to 4,332 in FY 2001-02. New male commitments will increase 27.5 percent, from 3,080 to 3,926, and new female commitments will increase 34.4 percent during that time period, from 302 to 406.
- The proportion of new commitments sentenced for violent offenses, including attempts and conspiracies at violent crimes, will increase from 32.1 percent in FY 1994-95 to 34.4 percent in FY 2001-02.
- The proportion of new commitments sentenced to the DOC for extraordinary risk offenses will increase from 55.8 percent in FY 1994-95 to 57.5 percent in FY 2000-02.
- Admissions for violent offenses will increase by 37.3 percent between FY 1994-95 and FY 2001-02, while those for property crimes will increase 20.4 percent and those for drug crimes will rise 25.4 percent during that period.
- Admissions for criminal attempts and conspiracies will increase 35.6 percent, from 550 to 746, a more rapid rate of growth than overall admissions.

## LENGTH OF STAY

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The length of stay of Colorado prison inmates is determined by the length of the sentences they are given by sentencing courts and the proportion of that sentence they actually spend in prison.

### Summary

Inmate length of stay declined in 1995 after rising in 1993 and 1994. Overall sentence length of DOC inmates has remained fairly stable, but inmates are serving less of their sentences due to an increase in discretionary releases to parole by the parole board in 1995. Discretionary releases refer to those that are not mandatory as required by House Bill 93-1302. The most variable influence on changes in the size of the prison population is the parole board's discretion. During 1993 and 1994, the trend was towards inmates serving a greater part of their sentences due to the parole board deferring the parole of most eligible inmates. In 1995 this trend reversed as the parole board released more inmates to parole. Based on this recent change, current projections assume a higher level of future discretionary parole releases, resulting in inmates serving less of their sentences on average than we forecast in our November 1994 and July 1995 projections.

**Sentence length.** Sentence length is primarily influenced by the provisions of sentencing statutes, including those relating to presumptive sentencing ranges, special sentencing categories, aggravating and mitigating circumstances, and crimes of violence. Sentence lengths of incoming inmates in all felony classes rose dramatically in the mid-1980s (due to House Bill 85-1320's doubling of presumptive range maximums), dropped somewhat toward the end of that decade, and remained fairly stable through most of the 1990s. Average sentences of class 2 felons have been getting progressively longer, however.

House Bill 93-1302 was the main change to sentencing laws to date during the 1990s. It made two important changes to sentencing laws that will have an effect on the prison population between now and FY 2001-02: shorter sentences for non-extraordinary risk felony class 3, 4, 5, and 6 crimes and mandatory parole. House Bill 93-1302 reduced maximum sentences for non-extraordinary risk crimes. Consequently, sentence lengths of non-extraordinary risk offenders declined somewhat in the last two years. Non-extraordinary risk crimes comprise approximately 45 percent of new commitments and a disproportionately large number of these offenders receive relatively short sentences. Thus, the reduction of an already-short sentence has less of an impact than if the reduction was applied to a long sentence. Meanwhile, many of these non-extraordinary risk commitments also have the aggravating circumstance of being on

probation at the time of the new crime, a condition that eliminates the possibility of receiving lower sentences. This reduces the proportion of inmates affected by the sentence reductions. Our estimates are that, if House Bill 93-1302's shorter sentence provisions would be fully implemented, the maximum eventual reduction to the DOC population would be four to five percent. During FY 1994-95 the vast majority (72 percent) of new inmates entered prison under the provisions of House Bill 93-1302. Between FY 1992-93 and FY 1994-95 average sentence length declined from 5.26 to 4.99 years for incoming class 4 felons, from 3.15 to 2.96 years for incoming class 5 felons, and from 2.02 to 1.62 years for incoming class 6 felons, indicating the law change is having a small impact in reducing overall average sentence length. Sentence lengths for class 2 felons and extraordinary-risk class 3 felons have risen, however, resulting in an overall increase in sentence length for all inmates from 6.24 years in FY 1992-93 to 6.59 years in FY 1994-95.

***Proportion of sentence served.*** Most DOC inmates spend significantly less than their full sentences in prison because of earned time and parole eligibility provisions. Inmates are eligible to receive 10 days of earned time against their sentences per 30 days of DOC incarceration. On average, they receive 80 percent of the earned time for which they are eligible, essentially reducing prison sentences 20 percent from court-imposed sentence lengths. Inmates also become eligible for parole after serving 50 percent (75 percent for repeat violent offenders) of their sentence less earned time. As a result, most DOC inmates become eligible for parole release after having served approximately 40 percent of their sentences (37.5 percent if they receive maximum earned time). At that point, the parole board may either release the inmate to parole or defer the inmate's parole to a later date. If the parole board continues to defer parole, the inmate will eventually serve his entire sentence less earned time and will be discharged from prison.

If all inmates remained incarcerated until the end of their sentences less earned time (75 to 80 percent of sentence), the total DOC population would eventually be nearly twice as large as it would be if all inmates were released on their parole eligibility date (37.5 to 40 percent of sentence). We estimate the overall average proportion of sentence served for DOC inmates over the last five years to be 55 percent. We project that this average 55 percent of sentence served in prison will continue throughout the forecast period. This figure represents a two percentage point reduction from the 57 percent we assumed in our November 1994 and July 1995 projections, after two years of very restrictive parole release policies that occurred in 1993 and 1994.

The number of discretionary releases to parole increased 52 percent (from 850 to 1,292) between the last six months of 1994 and the first six months of 1995. Consequently, the DOC population, which grew by 684 inmates during the latter half of 1994, fell by 20 during the first half of 1995. The number of discretionary parole releases is determined by the seven members of the State Board of Parole, a condition that does not lend itself well to statistical modeling as it is difficult to predict fluctuations in parole policies. Thus, we believe future oscillations in parole board release policies are possible and present the primary risk to the forecast.

## **PAROLE POPULATION AND PAROLE VIOLATORS**

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Between December 31, 1994, and October 31, 1995, the parole population increased from 1,810 to 2,068. This increase was primarily due to the large number of discretionary releases to parole in 1995 and represents a significant reversal from the previous year and one-half during which the number of parolees declined by 13.8 percent. A second factor contributing to the increased parole population has been House Bill 93-1302's mandatory parole requirements. Since September 1994, there have been 257 mandatory releases to parole, inmates who would have been discharged from correctional supervision (by virtue of having served their sentence less earned time) instead of released to parole if they had been convicted under the provisions of sentencing laws prior to House Bill 93-1302.

### **Summary**

We project the parole population to rise 206.0 percent, from 2,067 to 6,325 between October 31, 1995, and July 1, 2002. As a result of the large increase in the parole population, we are projecting the population of technical parole violators in prison to rise 154.3 percent, from 818 to 2,080, and the number of parole violators with new crimes in prison to rise 160.8 percent, from 897 to 2,339 by the end of the forecast period.

We project the parole population to begin rapidly increasing within the next several months and to continue to grow dramatically throughout the forecast period due to House Bill 93-1302's mandatory parole period. The mandatory parole period ranges from one year for class 6 felons to five years for class 2 and 3 felons. This mandatory period is longer than the current average length of stay on parole. We are projecting the parole population to grow more rapidly than we forecast in July for two reasons: (1) shorter projected prison lengths of stay will result in inmates beginning their mandatory parole periods earlier; and (2) more rapid growth in admissions will result in more inmates eventually being paroled. We project the following trends to occur in the parole and parole violator populations over the next five years:

- The number and proportion of total releases to parole will increase. Because of House Bill 93-1302's mandatory parole provisions, all inmates admitted for crimes committed after July 1, 1993, including those who serve their entire sentences in prison, will receive parole supervision after they are released. In contrast, 31.3 percent of FY 1994-95 releases were sentence discharges without parole supervision.

- The parole population will increase to over 6,300 by July 1, 2002, from 2,067 in October 1995.
- The average length of stay on parole will increase. The average parole stay is currently 11 months for those released to parole. Under House Bill 93-1302, this will mandatorily increase to one year for class 6 felons, two years for class 5 felons, three years for class 4 felons, and five years for class 2 and 3 felons and class 4 and 5 sex offenders. House Bill 95-1087 slightly offsets the effects of mandatory parole somewhat by allowing some non-violent offenders to receive earned time while on parole, reducing estimated parole lengths of stay by 20 percent for non-violent offenders and about eight percent overall. Given the current felony class distribution of incoming inmates, we estimate the average length of stay on parole for those sentenced under House Bill 93-1302's provisions to be 31.8 months, less any time spent reincarcerated for parole violations and new crimes.
- The parole population will include more offenders who are at higher risk of recidivism and technical violations due to the mandatory parole period. Under prior sentencing laws, violent offenders were serving most of their sentences incarcerated in the DOC, with short periods of parole supervision on average. When those sentenced under House Bill 93-1302's provisions eventually get released, they will be receiving longer periods of parole supervision. This increases the likelihood of a parole revocation.
- The number of parole violators reincarcerated for technical violations will increase. Not only did House Bill 93-1302 create a mandatory parole period, but the mandatory parole period is also far longer for all felony classes than most releases to parole under previous governing laws would have experienced. Thus, this extends the period of time during which a parolee has the opportunity to become a parole violator.
- The length of stay for reincarceration for a technical parole violation will increase by 25 percent on average for those offenders sentenced under the provisions of House Bill 93-1302. Sentence length used to impose a constraint on a technical violator's period of reincarceration. House Bill 93-1302 lifted that constraint, allowing many technical violators to remain incarcerated longer than their original sentence until being re-released to parole or re-released when their period of mandatory supervision expires.



- The number of parole violators reincarcerated for new crimes will increase as the parole population increases and as the parole population gradually includes more violent and repeat offenders at higher risk of recidivism. One result of mandatory parole is that more crimes taking place will be committed by offenders still under parole supervision. Many such offenders might return to prison regardless of their parole status, except that now more will return as parole violators with new crimes rather than new commitments for new crimes because of mandatory parole. Thus, the increase in parole violators with new crimes does not necessarily represent additional prison admissions that would not have occurred otherwise.
- The average length of stay in prison of parole violators with new crimes will increase since House Bill 93-1302 eliminated earned time while on parole and since sentences for parole violators with new crimes are usually made consecutive to the offender's existing sentence. Longer periods of mandatory parole will, therefore, result in longer periods of incarceration for parole violators with new crimes. House Bill 95-1087, which allows non-violent offenders to receive earned time while on parole, somewhat mitigates the length-of-stay increase due to mandatory parole for non-violent offenders.
- House Bill 95-1087 will slow the growth rate of the parole population and the resulting number of reincarcerated parole violators by allowing non-violent felons to receive earned time while on parole. Those who qualify, though, are concentrated primarily in less serious felony classes with shorter mandatory parole sentences. Therefore, by FY 2001-02 we estimate House Bill 95-1087 to reduce the parole population and the number of technical parole violators by less than ten percent from what they would have been had House Bill 95-1087 not been enacted. The provisions of House Bill 95-1087 allowing non-violent offenders with parole violations to receive credit against their sentences for time spent on parole has the greatest effect of reducing the total number of parole violators in FY 1995-96 and FY 1996-97.

## **Summary**

Legislative Council Staff projects that the Department of Corrections jurisdictional population will increase 49.0 percent, to 16,169, by July 1, 2002. The three main factors driving this increase are the following:

- A 28.1 percent increase in annual new commitments to DOC between FY 1994-95 and FY 2001-02.
- A large increase in technical parole violators and parole violators with new crimes due to the 206.0 percent increase in the parole population brought about by mandatory parole.
- Relatively constant overall average length of stay, with somewhat longer lengths of stay for felony class 2 and extraordinary-risk felony class 3 offenders and somewhat shorter lengths of stay for non-extraordinary-risk felony class 4, 5, and 6 offenders.

**Table 13.1: Legislative Council Staff's December 1995 Prison and Parole Population Projections by  
Commitment Type and Gender**

Date	Population of Original Crime Commitments			Population of Parole Violators with New Crimes			Population of Technical Parole Violators			TOTAL DOC POPULATION			Parole Population		
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total
October 31, 1995	8,537	597	9,134	863	34	897	743	75	818	10,143	706	10,849	1,844	223	2,067
January 1, 1996	8,594	599	9,193	873	35	908	759	77	836	10,226	711	10,937	2,001	245	2,246
April 1, 1996	8,719	604	9,323	881	39	920	794	80	874	10,394	723	11,117	2,124	280	2,404
July 1, 1996	8,850	612	9,462	903	40	943	833	83	916	10,586	735	11,321	2,223	314	2,537
October 1, 1996	8,999	623	9,622	927	43	970	865	86	951	10,791	752	11,543	2,341	321	2,662
January 1, 1997	9,116	631	9,747	967	46	1,013	913	89	1,002	10,998	766	11,762	2,452	333	2,785
April 1, 1997	9,213	636	9,849	994	48	1,042	947	91	1,038	11,154	775	11,929	2,602	364	2,966
July 1, 1997	9,319	645	9,964	1,026	51	1,077	996	94	1,090	11,341	780	12,121	2,752	384	3,136
October 1, 1997	9,439	653	10,092	1,066	54	1,120	1,065	97	1,162	11,570	804	12,374	2,947	397	3,344
January 1, 1998	9,558	659	10,217	1,107	58	1,165	1,145	100	1,245	11,810	817	12,627	3,131	418	3,549
April 1, 1998	9,687	670	10,357	1,167	61	1,228	1,194	105	1,299	12,048	836	12,884	3,324	444	3,768
July 1, 1998	9,803	680	10,483	1,227	64	1,291	1,245	110	1,355	12,275	854	13,129	3,484	469	3,953
October 1, 1998	9,964	690	10,654	1,298	67	1,365	1,277	113	1,390	12,539	870	13,409	3,648	486	4,134
January 1, 1999	10,068	696	10,764	1,351	70	1,421	1,311	117	1,428	12,730	883	13,613	3,821	504	4,325
April 1, 1999	10,140	702	10,842	1,398	74	1,472	1,355	121	1,476	12,893	897	13,790	4,012	526	4,538
July 1, 1999	10,246	708	10,954	1,450	79	1,529	1,395	125	1,520	13,091	912	14,003	4,179	548	4,727
October 1, 1999	10,348	716	11,064	1,514	84	1,598	1,427	128	1,555	13,289	928	14,217	4,341	575	4,916
January 1, 2000	10,422	720	11,142	1,576	89	1,665	1,476	132	1,608	13,474	941	14,415	4,475	601	5,076
April 1, 2000	10,482	724	11,206	1,642	93	1,735	1,547	134	1,681	13,671	951	14,622	4,582	623	5,205
July 1, 2000	10,536	728	11,264	1,699	95	1,794	1,617	135	1,752	13,852	958	14,810	4,696	645	5,341
October 1, 2000	10,600	732	11,332	1,761	100	1,861	1,674	137	1,811	14,035	969	15,004	4,810	668	5,478
January 1, 2001	10,654	735	11,389	1,827	104	1,931	1,733	139	1,872	14,214	978	15,192	4,960	687	5,647
April 1, 2001	10,708	737	11,445	1,893	108	2,001	1,793	141	1,934	14,394	986	15,380	5,051	707	5,758
July 1, 2001	10,772	740	11,512	1,950	112	2,062	1,823	143	1,966	14,545	995	15,540	5,112	721	5,833
October 1, 2001	10,826	742	11,568	2,012	115	2,127	1,853	144	1,997	14,691	1,001	15,692	5,211	738	5,949
January 1, 2002	10,898	744	11,642	2,085	118	2,203	1,881	145	2,026	14,864	1,007	15,871	5,333	751	6,084
April 1, 2002	10,954	746	11,700	2,143	120	2,263	1,911	146	2,057	15,008	1,012	16,020	5,441	761	6,202
July 1, 2002	11,002	748	11,750	2,216	123	2,339	1,933	147	2,080	15,151	1,018	16,169	5,555	770	6,325

Note: Parole violator categories also include court-ordered discharge returns and probation returns.

**Table 13.2: Historical and Projected DOC  
Population Growth**

<b>Date</b>	<b>DOC Population</b>	<b>Number Change</b>	<b>Percent Change</b>
7/1/82	3,114	No Data	No Data
7/1/83	3,415	301	9.7%
7/1/84	3,680	265	7.8%
7/1/85	3,637	(43)	-1.2%
7/1/86	4,088	451	12.4%
7/1/87	4,746	658	16.1%
7/1/88	5,756	1,010	21.3%
7/1/89	6,971	1,215	21.1%
7/1/90	7,663	692	9.9%
7/1/91	8,043	380	5.0%
7/1/92	8,774	731	9.1%
7/1/93	9,242	468	5.3%
7/1/94	10,005	763	8.3%
7/1/95	10,669	664	6.6%
7/1/96 P	11,321	652	6.1%
7/1/97 P	12,131	810	7.2%
7/1/98 P	13,129	998	8.2%
7/1/99 P	14,003	874	6.7%
7/1/00 P	14,810	807	5.8%
7/1/01 P	15,540	730	4.9%
7/1/02 P	16,169	629	4.0%

P = Projected.

**Table 13.3: Comparison of Legislative Council Staff's July 1995 and December 1995 Prison  
Admissions Projections by Commitment Type**

Date	New Commitments for New Crimes			Commitments of Parole Violators with New Crimes			Admissions for Technical Parole Violations			TOTAL DOC ADMISSIONS		
	7/95	12/95	Difference	7/95	12/95	Difference	7/95	12/95	Difference	7/95	12/95	Difference
<b>FY 1994-95 (Actual)</b>		<b>3,382</b>			<b>195</b>			<b>833</b>			<b>4,410</b>	
Projected:												
FY 1995-96	3,542	3,670	128	197	196	(1)	797	904	107	4,536	4,770	234
FY 1996-97	3,565	3,790	225	261	264	3	871	1,062	191	4,697	5,116	419
FY 1997-98	3,836	3,909	73	359	372	13	1,126	1,271	145	5,321	5,552	231
FY 1998-99	3,874	4,015	141	428	498	70	1,101	1,375	274	5,403	5,888	485
FY 1999-00	3,936	4,117	181	492	595	103	1,144	1,472	328	5,572	6,184	612
FY 2000-01	NA	4,226	NA	NA	657	NA	NA	1,618	NA	NA	6,501	NA
FY 2001-02	NA	4,332	NA	NA	698	NA	NA	1,692	NA	NA	6,722	NA

Note: Parole violator categories also include court-ordered discharge returns and probation returns.

**Table 13.4: Projected New DOC Commitments by Type of Crime\***

Crime	FY 1994-95	FY 1995-96	FY 1996-97	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	Percent Change FY 1994-95 to FY 2001-02
Murder and Manslaughter	111	120	124	129	133	137	141	145	30.6%
Sex Crimes	245	269	284	294	302	311	322	331	35.1%
Robbery	117	127	129	131	133	136	137	140	19.7%
Assault & Menacing	372	414	431	449	465	480	497	513	37.9%
Burglary and Trespass	369	385	393	399	406	411	417	424	14.9%
Theft	267	288	298	308	312	317	324	329	23.2%
Motor Vehicle Theft	57	61	63	64	67	70	72	76	33.3%
Fraud and Forgery	156	168	172	177	181	184	189	193	23.7%
Drug Crimes	639	691	710	730	748	765	784	801	25.4%
Driving after Revocation of License	126	137	141	146	150	153	157	161	27.8%
Escape Offenses	194	210	217	224	230	236	242	248	27.8%
Violent Criminal Attempts and Conspiracies	189	217	228	240	253	265	277	291	54.0%
Non-Violent Criminal Attempts and Conspiracies	361	392	403	415	426	437	447	455	26.0%
Miscellaneous Crimes**	155	166	170	175	180	185	189	193	24.5%
Habitual Offenders	24	25	27	28	29	30	31	32	33.3%
<b>Total New Commitments</b>	<b>3,382</b>	<b>3,670</b>	<b>3,790</b>	<b>3,909</b>	<b>4,015</b>	<b>4,117</b>	<b>4,226</b>	<b>4,332</b>	<b>28.1%</b>

\* Admissions projections by crime type do not include parole violators with new crimes.

\*\* Miscellaneous includes vandalism, criminal mischief, public order offenses, kidnapping, arson, and other crimes that each contribute relatively few commitments to the DOC.

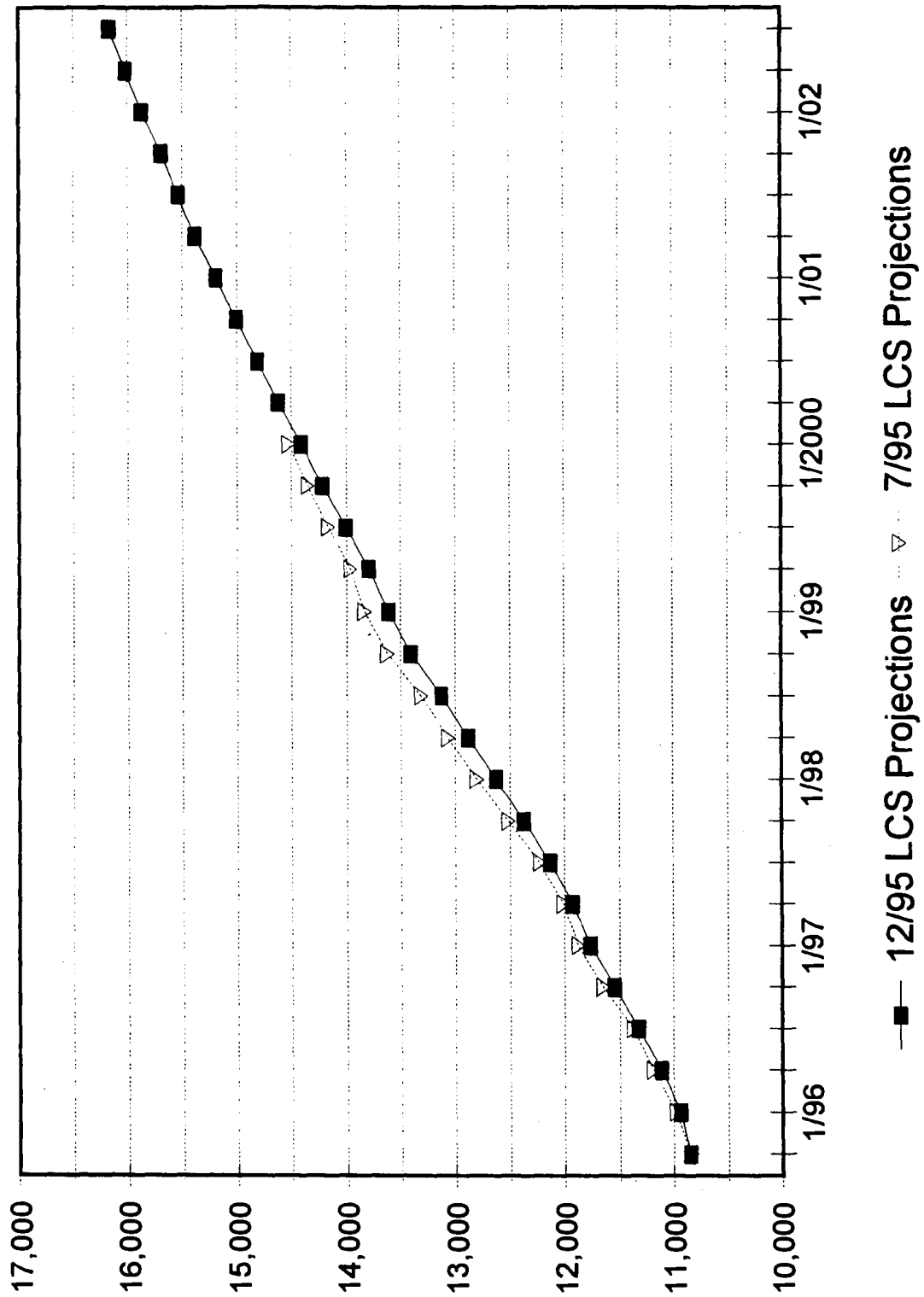
**Table 13.5: Comparison of Legislative Council Staff's July 1995 and December 1995 Prison and Parole Population Projections**

Date	Prison Population			Parole Population		
	7/95	12/95	Difference	7/95	12/95	Difference
October 31, 1995	10,845	10,849	4	2,007	2,067	60
January 1, 1996	10,981	10,937	(44)	2,007	2,248	239
April 1, 1996	11,187	11,117	(70)	2,064	2,404	340
July 1, 1996	11,371	11,321	(50)	2,160	2,537	377
October 1, 1996	11,650	11,543	(107)	2,323	2,662	339
January 1, 1997	11,878	11,762	(116)	2,542	2,785	243
April 1, 1997	12,011	11,929	(82)	2,816	2,968	150
July 1, 1997	12,231	12,131	(100)	2,978	3,136	158
October 1, 1997	12,516	12,374	(142)	3,108	3,344	236
January 1, 1998	12,804	12,627	(177)	3,264	3,549	285
April 1, 1998	13,072	12,884	(188)	3,431	3,768	337
July 1, 1998	13,313	13,129	(184)	3,619	3,953	334
October 1, 1998	13,625	13,409	(216)	3,730	4,134	404
January 1, 1999	13,833	13,613	(220)	3,929	4,325	396
April 1, 1999	13,964	13,790	(174)	4,152	4,538	386
July 1, 1999	14,163	14,003	(160)	4,321	4,727	406
October 1, 1999	14,350	14,217	(133)	4,489	4,916	427
January 1, 2000	14,529	14,415	(114)	4,647	5,076	429
April 1, 2000	NA	14,622	NA	NA	5,205	NA
July 1, 2000	NA	14,810	NA	NA	5,341	NA
October 1, 2000	NA	15,004	NA	NA	5,478	NA
January 1, 2001	NA	15,192	NA	NA	5,647	NA
April 1, 2001	NA	15,380	NA	NA	5,758	NA
July 1, 2001	NA	15,540	NA	NA	5,833	NA
October 1, 2001	NA	15,692	NA	NA	5,949	NA
January 1, 2002	NA	15,871	NA	NA	6,084	NA
April 1, 2002	NA	16,020	NA	NA	6,202	NA
July 1, 2002	NA	16,169	NA	NA	6,325	NA

Note: Parole violator categories also include court-ordered discharge and probation returns.

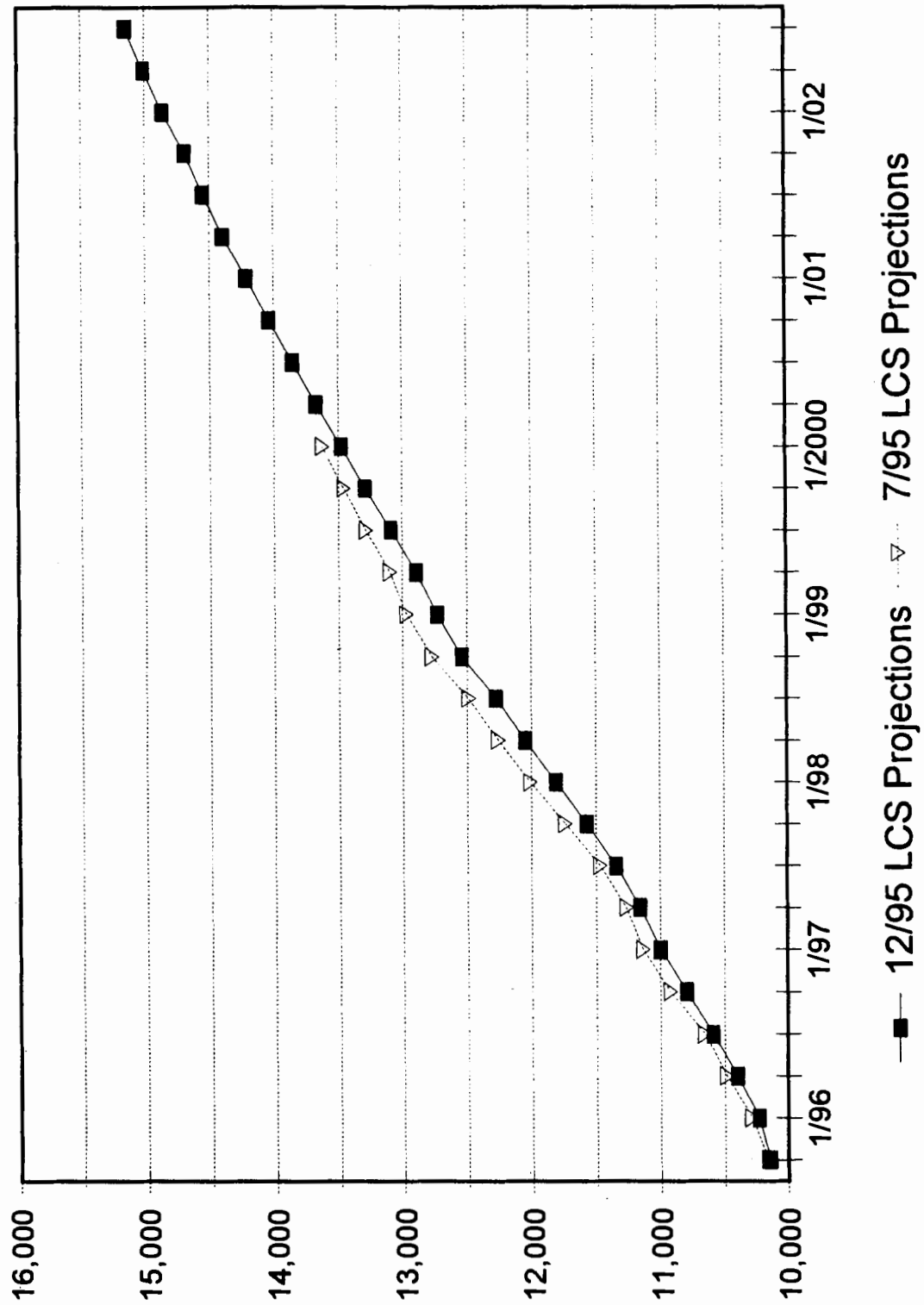
NA: Not Applicable.

**Graph 13.1: Total DOC Population**

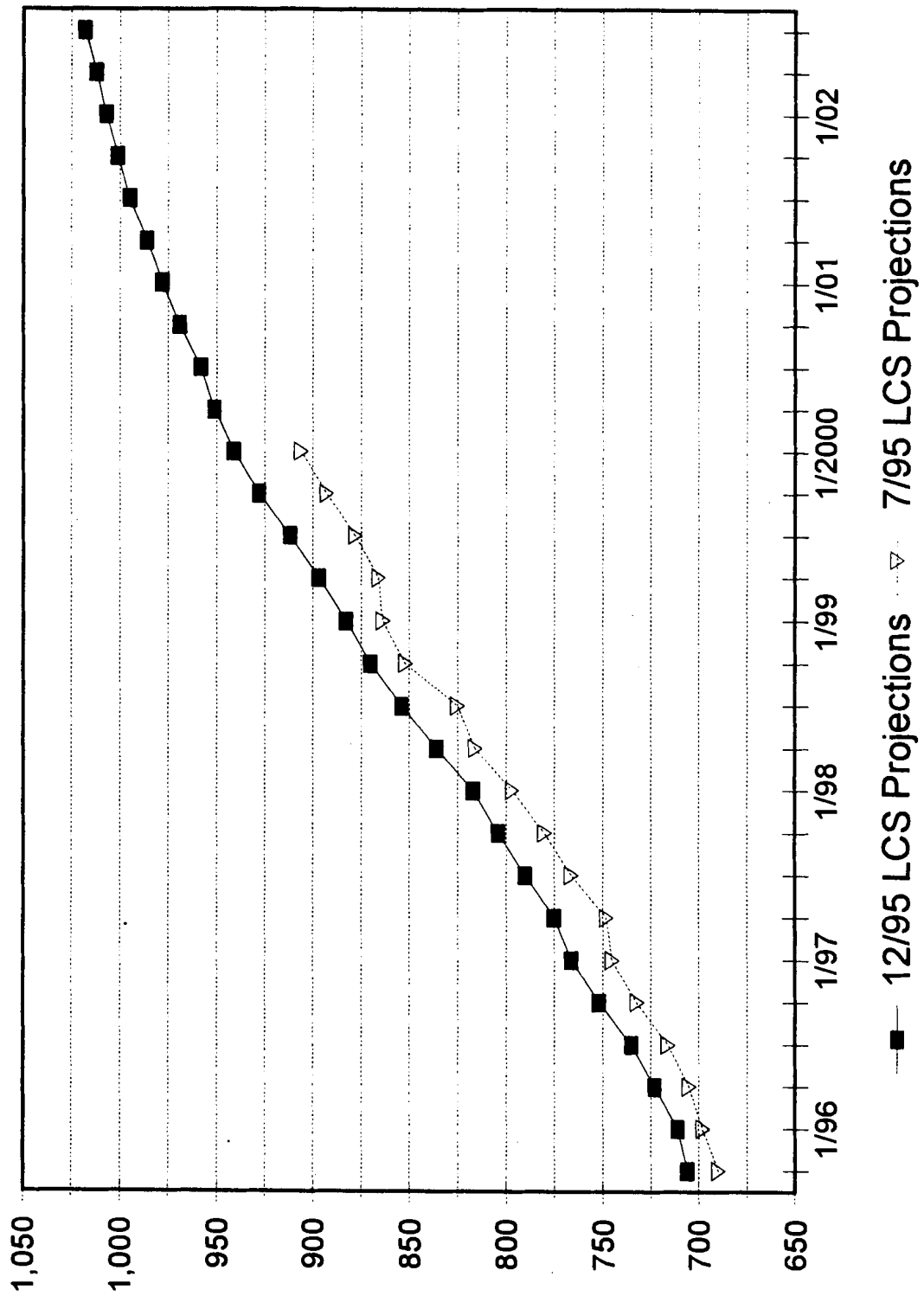




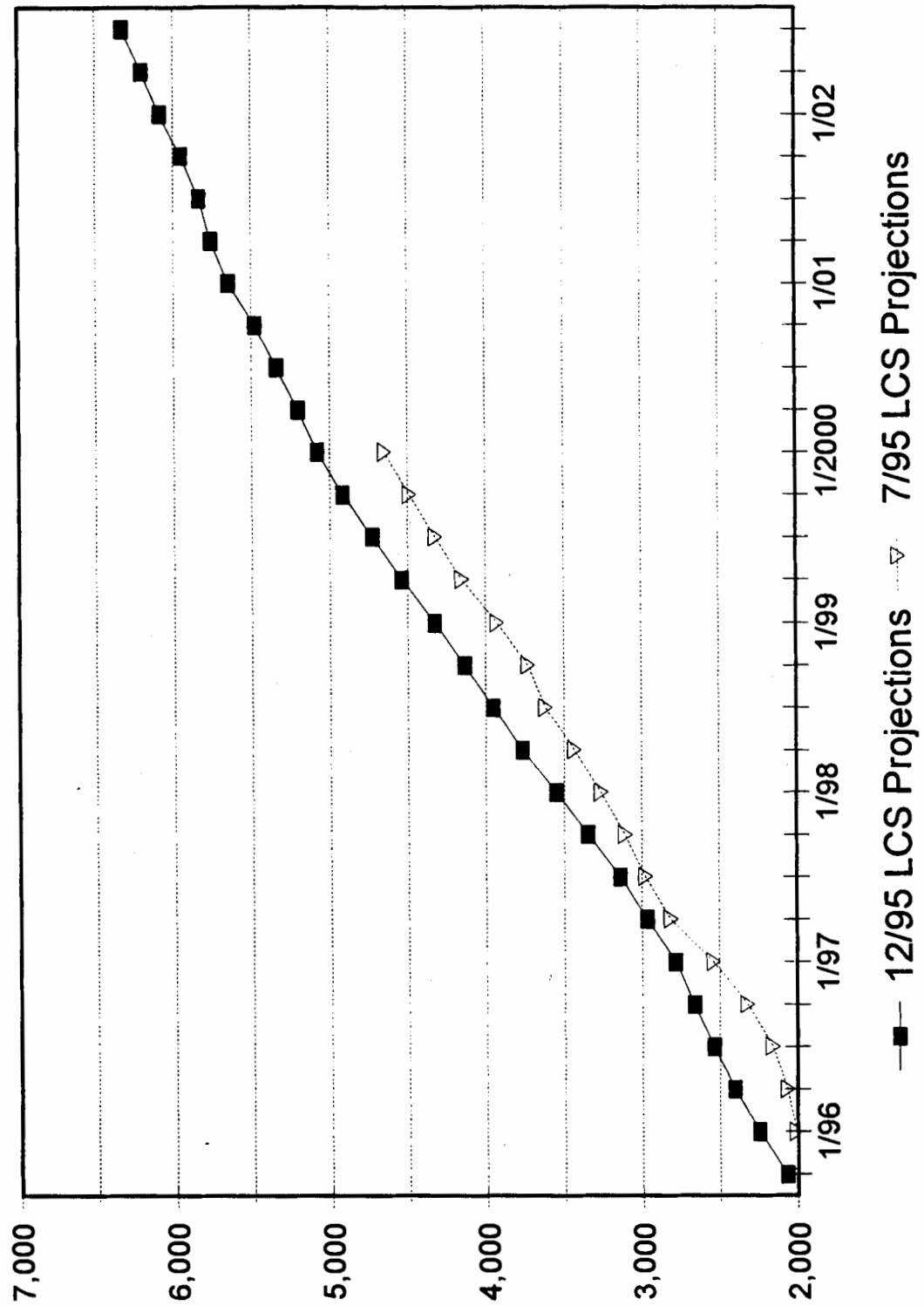
**Graph 13.2: Male DOC Population**



**Graph 13.3: Female DOC Population**



**Graph 13.4: Parole Population**



## **YOUTHFUL OFFENDER SYSTEM POPULATION PROJECTIONS**

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The Youthful Offender System (YOS) is relatively new, authorized by statute to begin receiving inmates in March 1994. Given its relatively short history, it does not lend itself to traditional forecasting techniques. There are no long-term data on trends in either commitments or their lengths of stay. Thus, at this point in time, any YOS projections must be loosely based on one year of data for commitments and sentence lengths, modified by judgments about what changes are likely to occur within the forecast period.

The Department of Corrections (DOC) projected YOS populations through the end of calendar year 2000 and anticipates said population to increase by 200 percent between September 30, 1995, and December 31, 2000, (from 151 to 453). Table 13.6 and Graph 13.5 present these forecasts. Legislative Council Staff (LCS) broadly concurs with the methodology the DOC used in its YOS projections. Therefore, rather than preparing separate YOS projections, we are presenting those completed by the DOC and the reasons for our agreement with them.

### **NUMBER OF COMMITMENTS**

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Over the 15-month period between July 1994 and September 1995, the number of commitments to the YOS averaged nine per month. This resulted in a YOS population of 151 inmates on September 30, 1995. The YOS population began to exceed the 96-bed capacity of its allotted space at the Denver Reception and Diagnostic Center in March 1995. Since then, the YOS has contracted for additional beds with private out-of-state facilities to handle the additional offenders. Meanwhile, a new 300-bed facility is under construction in Pueblo.

The DOC projections assume 25 new commitments per quarter in both FY 1995-96 and FY 1996-97 and 35 new commitments per quarter in FY 1997-98. New commitments would then drop to 30 per quarter in FY 1998-99, FY 1999-00, and FY 2000-01. The projections assume a small decline in commitments from their recent rate until the new YOS facility opens in February 1997, since most future commitments will be placed out-of-state. It is also assumed that once the YOS facility is opened, the commitment rate will rise again until that facility's capacity is reached. Once operating at capacity, commitments will decline somewhat as some additional inmates will need to be placed in contracted out-of-state facilities.

The number of commitments to the YOS depends on how many youths who have committed serious crimes are filed on directly as adults in district court. The use of direct file provisions versus the use of YOS as a sentencing option will be influenced by how successful the YOS program is perceived to be relative to other programs such as probation and the Office of Youth Services (OYS) commitment. The DOC's commitment assumptions are generally consistent with the findings of LCS research on capacity's effect on the judicial system's use of correctional placements. We have found that in both the adult and juvenile systems, placement decisions and ultimately the size of correctional populations are influenced by the adequacy of capacity. When capacity is full in a particular sentencing option, it is used less frequently than when such a constraint does not exist. Thus, LCS is in general agreement with the DOC commitment projections.

### **LENGTH OF STAY**

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The DOC's YOS population projections used data on the distribution of sentence lengths of the first 100 offenders sentenced to the YOS. The DOC assumed that future commitments will have a similar distribution of sentence lengths. The distribution of sentence lengths of the first 100 offenders are presented in Table 13.6.

**Table 13.6: Sentence Length Distributions of YOS Commitments**

<b>Sentence in Months</b>	<b>Number</b>	<b>Percent</b>
12	0	0%
18	0	0%
24	11	11%
30	2	2%
36	19	19%
48	21	21%
60	30	30%
72	17	17%
Total	100	100%

YOS offenders serve their entire sentences with set periods spent in each phase of the program and without credits other than time spent in jail before sentencing. As a result, there exists little uncertainty about the lengths of stay of YOS offenders. Phases I and II of the YOS program are spent incarcerated in a YOS facility or in a secure contract facility. Phase III of the YOS program places the offender in a community nonresidential facility or on parole. The DOC's projections assume YOS

commitments will remain in the program's Phase I until one year before the end of their sentences, less the average 3.4 months of jail credit received by YOS offenders against their sentences. Afterwards, they will spend three months in Phase II of the program and the last nine months of their sentences in the Phase III (nonresidential) part of the program. LCS concurs with the methodology the DOC used to project the lengths of stay of current and future commitments. Table 13.7 details the DOC's five-year YOS population projections.

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### **PROJECTED POPULATION VERSUS CAPACITY**

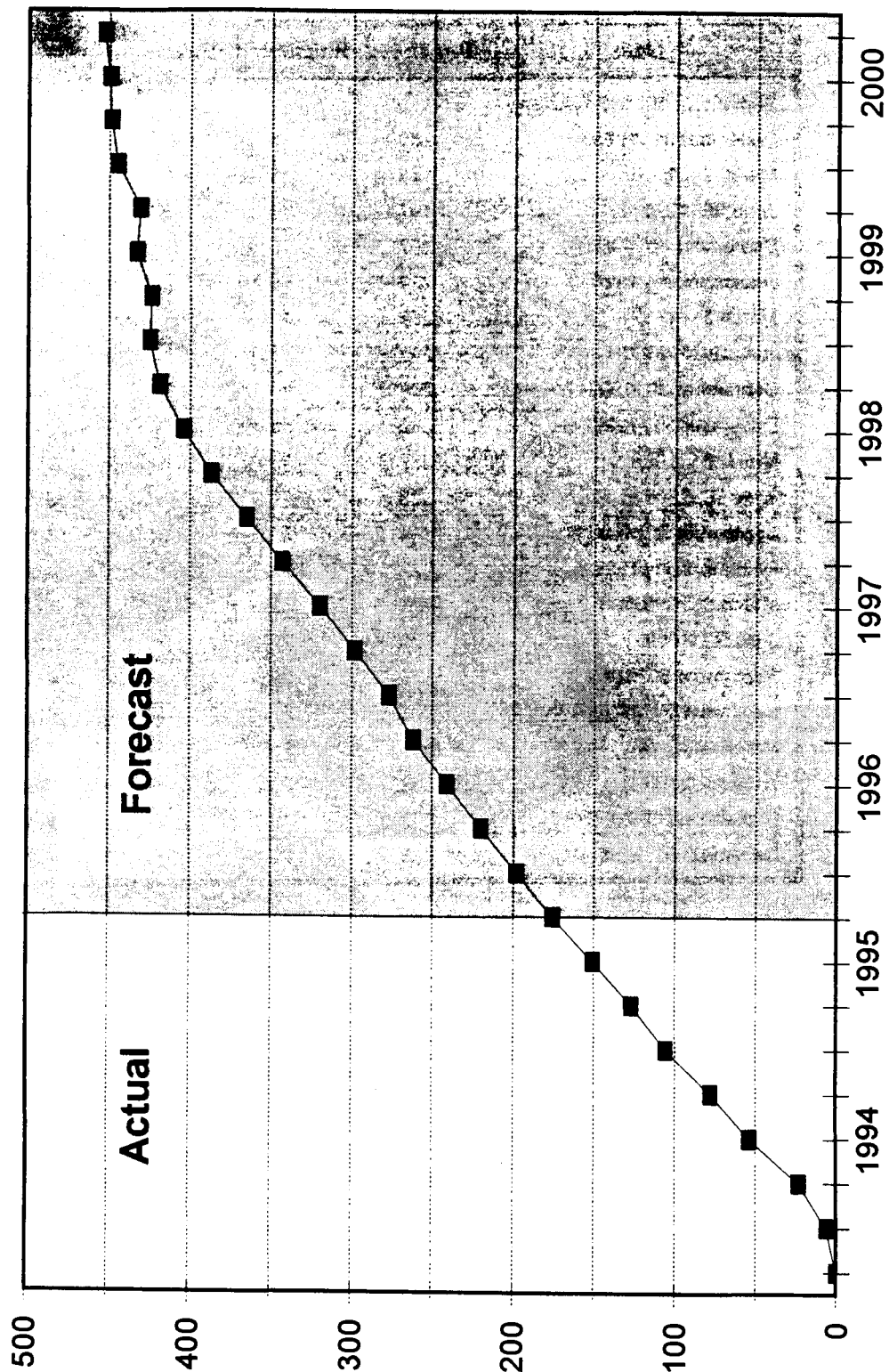
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The DOC projects 362 YOS inmates in the Phase I and Phase II incarceration portions of the program by December 31, 2000. This figure is 62 inmates above the planned capacity of the YOS facility in Pueblo, indicating that YOS contract placements will continue to be needed in the future unless admissions trends or sentence lengths change significantly. The DOC projections assume a number of quarterly commitments similar to that experienced during the first eighteen months of the program's existence, and that future commitments will have a distribution of sentence lengths similar to those of the first 100 YOS commitments.

**Table 13.7: The DOC's YOS Population Projections  
1995-2000**

Date	Phase I	Phase II	Phase III	Total
September 30, 1995 ( <i>Actual</i> )	140	3	8	151
December 31, 1995	160	5	11	176
March 31, 1996	179	6	13	198
June 30, 1996	197	7	16	220
September 30, 1996	207	15	19	241
December 31, 1996	223	9	30	262
March 31, 1997	235	13	29	277
June 30, 1997	247	13	38	298
September 30, 1997	268	14	38	320
December 31, 1997	285	18	40	343
March 31, 1998	297	23	45	365
June 30, 1998	305	27	55	387
September 30, 1998	314	21	69	404
December 31, 1998	322	25	72	419
March 31, 1999	326	23	76	425
June 30, 1999	329	27	68	424
September 30, 1999	330	29	74	433
December 31, 1999	333	27	71	431
March 31, 2000	330	33	82	445
June 30, 2000	331	29	89	449
September 30, 2000	332	29	93	454
December 31, 2000	333	29	91	453

**Graph 13.5: Actual and Projected  
YOS Population: 1994 - 2000**





## **Chapter 14 — The Role of Plea Bargaining and Sentencing Alternatives in the Criminal Justice System of Colorado**

This chapter examines the extent of plea bargaining in Colorado using data provided by the Colorado District Attorneys Council (CDAC) on felony court cases filed in 1992. Plea bargaining plays a major role in the criminal justice system. The large majority of guilty dispositions throughout the state are the result of guilty or *nolo contendere* pleas rather than trial convictions. Since most convictions result from plea bargains, convicted felons are often sentenced for crimes less serious than those with which they were charged and may have committed. This chapter examines the extent of plea bargaining to less serious crimes and the correctional placement of offenders by felony class of *original charge* versus *conviction*.

## **THE ROLE OF PLEA BARGAINING IN THE CRIMINAL JUSTICE SYSTEM**

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When considering the potential deterrent effects of a punishment for a crime, one must consider many factors. These include:

- the likelihood of an individual being apprehended for the crime committed;
- the likelihood of being charged with and convicted of the crime committed or of a lesser crime;
- the likelihood of receiving various correctional placements if convicted;
- the length of any sentence imposed; and
- the proportion of the sentence the offender actually serves.

For example, an individual may commit a crime that is classified as a non-violent class 3 felony, a crime for which the presumptive sentencing range is 4 to 12 years if no aggravating or mitigating circumstances are present. Therefore, it might appear that the expected penalty for committing such a crime is 4 to 12 years in prison. Thus, it might seem perplexing that criminal activity remains so common in the presence of such penalties. In reality, the expected punishment for committing such a crime is far lower. The crime may never be reported. If the crime is reported, the criminal may never be located and arrested. If he is arrested and charged with the crime, there may not be sufficient evidence to convict him on that charge or the evidence may be ruled inadmissible if it was not obtained properly. The criminal may plead guilty to a less serious charge with a lower presumptive sentencing range. If convicted, depending on the nature of the offense and prior criminal history, the offender may receive an alternative to a prison sentence, such as a probation or community corrections sentence. Even if he is sentenced to prison, with earned time received in prison, he will be eligible for parole after serving significantly less than half of the sentence.

To examine the extent of plea bargaining in Colorado and how it relates to criminal penalties as potential deterrents to criminal activity, Legislative Council Staff (LCS) used the District Attorneys' Council database of all felony court cases filed in 1992. The 1992 database contains all felony cases in 16 of the 22 judicial districts in Colorado. Together, these judicial districts contain 88 percent of the Colorado's population and account for a similar percentage of the state's felony cases and prison commitments. We chose to look at cases that were filed in 1992 rather than a more recent year because there are many cases filed in 1993 and 1994 that have not yet been disposed and sentenced.

## Plea to a Less Serious Crime

Within the 16 judicial districts for which data were available, there were 8,666 felony convictions, 3.3 percent of which were trial convictions and 96.7 percent of which were guilty or *nolo contendere* plea convictions. As Table 14.1 shows, the percentage of felony convictions resulting from a trial is far higher for the two most serious felony categories, class 1 and class 2 felonies (which represent a small number of crimes) than for less serious crimes. For example, while 88.0 percent of felony class 1 convictions were trial convictions, only 0.6 percent of felony class 6 convictions resulted from a trial. For class 2 felonies, nearly two thirds (65.5 percent) of convictions resulted from a guilty plea.

**Table 14.1: Type of Conviction by Felony Class**

Felony Class of Highest Conviction	Total Convictions	Trial Convictions	Guilty and Nolo Contendere Plea Convictions	Percent Trial Convictions	Percent Plea Convictions
Class 1	25	22	3	88.0%	12.0%
Class 2	87	30	57	34.5%	65.5%
Class 3	1,082	93	989	8.6%	91.4%
Class 4	2,719	92	2,627	3.4%	96.6%
Class 5	3,591	43	3,548	1.2%	98.8%
Class 6	1,162	7	1,155	0.6%	99.4%
Total	8,666	287	8,379	3.3%	96.7%

The large majority of convictions were for a less serious crime or lower felony class crime than the most serious crime with which the defendant was originally charged. There are many reasons why an individual may be convicted of a less serious crime than the one with which he was originally charged. First, plea bargaining may occur for purposes of expediency because of a lack of court time and resources. A plea bargain, which requires less court time and resources than a jury trial, is an efficient and common way of obtaining a conviction. A second reason for plea bargaining is that correctional resources are limited. If the offenders who are convicted through a plea agreement were sentenced for the crimes with which they were charged rather than the ones to which they pled guilty, prison and other correctional populations would be larger than they are currently. Also, witnesses or victims may not be available to testify. Evidence may be insufficient, and judges may rule certain evidence inadmissible, making it difficult for the prosecuting attorney to obtain a conviction on the original charge.

It is also possible that the highest original charge may not accurately reflect the crime committed. Criminal charges must be filed within 72 hours of an arrest for a crime, a relatively short period to collect evidence and obtain the testimony of victims and witnesses. After more time passes and more evidence becomes available, the highest criminal charges may be dropped if the evidence shows that a less serious crime was what, in fact, was committed. The CDAC data allow us to compare the crimes with which the offenders were charged versus crimes of conviction, but the database does not enable us to determine how much of the difference was due to district attorneys charging more serious crimes than actually took place relative to how much was the result of plea bargaining to lesser crimes.

Table 14.2 presents a comparison of the felony class of the most serious crime with which defendants were *charged* and the felony class of the most serious crime of which they were *convicted*. Those cases without a reported disposition were excluded from Table 14.2.

**Table 14.2: Highest Felony Charge and Highest Conviction**

Class of Most Serious Felony Conviction	Class of Highest Felony Charge					
	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6
Number	105	282	5,230	6,034	3,252	1,335
Class 1	28.6%	0.0%	0.0%	0.0%	0.0%	0.0%
Class 2	39.0%	17.0%	0.0%	0.0%	0.0%	0.0%
Class 3	8.6%	27.7%	23.3%	0.0%	0.0%	0.0%
Class 4	20.0%	23.8%	25.8%	29.2%	0.0%	0.0%
Class 5	1.9%	10.6%	26.6%	25.1%	33.1%	0.0%
Class 6	0.0%	0.7%	2.2%	4.6%	10.9%	34.2%
Misdemeanor	1.0%	5.0%	9.3%	26.2%	36.8%	43.9%
Petty Offense	0.0%	0.0%	0.3%	0.4%	0.3%	0.6%
Traffic Offense	0.0%	0.0%	0.1%	0.1%	0.5%	1.0%
Dismissed	4.8%	12.4%	11.9%	13.9%	17.8%	20.1%
Trial — Not Guilty	1.0%	2.8%	0.5%	0.6%	0.6%	0.1%

Table 14.2 shows that the phenomenon of offenders being convicted of less serious crimes than the ones with which they were charged occurs at all felony class levels. Most class 1 and many class 2 felony convictions are the outcome of jury trials and thus are not plea bargained. The vast majority (96.7 percent) of total felony convictions in the state, are resolved through a plea bargain agreement. For example, among those charged with class 3 felonies as their most serious offense, more offenders were convicted of class 4 (25.8 percent) or class 5 (26.6 percent) felonies as their most serious offense than the class 3 felony offenses with which they were originally charged

(23.3 percent). Nonetheless, one needs to bear in mind that, as previously noted, there may be other reasons for the difference in the original charge compared with the convicted charge than a plea bargain.

Except for class 1 felonies, as the seriousness of the crime increases, the proportion convicted of the original felony class charge declines. This may be a result of the greater differential in penalties for convictions at the more serious felony classes than less serious classes. For example, the difference between a class 2 conviction and a class 3 conviction may mean being sentenced to 20 years in prison (the maximum for a class 2 offense) or four years (the minimum for a class 3 offense). Meanwhile, the difference in penalties between a class 5 and a class 6 felony conviction is minor, since most offenders convicted of class 5 and class 6 felonies receive probation. Therefore, to an offender, the potential benefits of plea bargaining rise with the seriousness of the charge. Class 1 felony offenses appear to be an exception to this trend largely because they are usually tried in court rather than plea bargained.

Table 14.2 also shows that all charges are dismissed in a significant minority of cases. This may occur because of a lack of evidence, improperly obtained evidence, or a wrongful arrest and charge. Many of these cases, however, represent charges being dropped in one jurisdiction for a guilty plea to a crime in another jurisdiction. For example, an offender may be charged with different crimes in Adams, Arapahoe, and Denver counties. As part of a plea bargain, the charges in two jurisdictions would be typically dismissed for a guilty plea in the third jurisdiction. Thus, dismissed cases do not necessarily represent people wrongly charged with a crime.

## **Sentencing Alternatives**

In calculating the average punishment for conviction of a particular crime, one must also consider the sentences of all those convicted of that crime and not merely those sent to prison. Data provided by the DOC on inmate length of stay provide some insight into the length of stay in prison of those offenders receiving prison sentences. Such data can be somewhat misleading, however, since they do not provide any information on those convicted of a crime who do not receive prison sentences. For example, if the average length of stay in prison for those convicted of a particular crime is three years, but only one-third of the individuals convicted of that crime are sentenced to prison while the remainder receive probation, the average time spent in prison for being convicted of such a crime is actually only one year. Therefore, the expected penalty for committing a crime is less than the average length of stay in prison of those sentenced to DOC for that crime.

Tables 14.3 and 14.4 consist of data from the CDAC database on the placement of offenders based on class of criminal conviction and criminal charge. Table 14.3 consists of those *convicted* of crimes of a particular felony class and the proportion given each sentencing alternative. Table 14.4 includes the placement of those based on the felony class of the *original criminal charge*. It should be remembered that, in some cases, offenders may have originally been charged with more serious crimes than the ones they committed.

Table 14.3: Placement by Felony Class of Most Serious Conviction

Felony Class	Number	Probation/Intensive Supervision/Useful Public Service	Community Corrections	County Jail	Prison	Other Sentences
1	25	0.0%	0.0%	0.0%	100.0%	0.0%
2	87	5.7%	4.6%	0.0%	88.5%	1.1%
3	1,082	44.5%	8.4%	0.2%	46.2%	0.6%
4	2,719	53.3%	9.8%	0.2%	36.5%	0.3%
5	3,591	62.0%	9.9%	0.3%	27.4%	0.3%
6	1,162	60.2%	10.8%	0.8%	27.2%	1.0%
Total	8,666	56.1%	9.8%	0.3%	33.4%	0.4%

Table 14.4: Placement by Felony Class of Most Serious Charge

Felony Class	Number	Probation/Intensive Supervision/Useful Public Service	Deferred Sentence	Community Corrections	County Jail	Prison	Other Sentence	Case Dismissed	Not Guilty — Trial
1	105	2.9%	0.0%	5.7%	0.0%	85.7%	0.0%	4.8%	1.0%
2	282	31.2%	0.7%	6.7%	3.5%	42.2%	0.4%	12.4%	2.8%
3	5,230	47.8%	1.9%	9.4%	1.0%	27.1%	0.3%	11.9%	0.5%
4	6,034	51.7%	7.0%	5.9%	5.6%	14.6%	0.8%	13.9%	0.6%
5	3,262	52.8%	7.4%	4.8%	7.9%	9.1%	0.5%	17.8%	0.6%
6	1,335	37.6%	0.9%	4.4%	25.7%	9.8%	1.1%	20.1%	0.1%
Total	16,238	38.4%	1.4%	6.6%	5.6%	17.9%	2.1%	15.7%	0.6%

These tables show several things. The placement of those convicted indicates that, except for the most serious felony class 1 and 2 crimes, the majority (66.6 percent) of those convicted of felony crimes do not receive prison sentences. For example, only 46.2 percent of those convicted of class 3 felonies received prison sentences. This large pool of felons, who could be sent to prison based on their criminal convictions but are receiving alternative placements, may partly explain why additional prison capacity is quickly filled after it is completed. A small increase in the proportion of convicted felons receiving prison sentences can quickly translate into several hundred additional prison inmates. For example, a two percentage point increase in proportion of felons convicted to prison would increase prison admissions by 172. The placement of those based on the crime with which they were originally charged (Table 14.4 data) shows that, if the criminal charge more closely resembles the crime committed than the criminal conviction in plea bargained cases, a large proportion of those who committed serious violent crimes received sentences to probation or community corrections.

A comparison of Tables 14.3 and 14.4 attempts to show the impact of plea bargaining. For example, among the small number of *convicted* class 2 felons (Table 14.3), 88.5 percent received prison sentences. Excluding dismissed cases and those found to be not guilty among those *originally charged* with class 2 felonies — charges such as second degree murder, first and second degree kidnap, first degree sexual assault, aggravated robbery of controlled substances, and child abuse resulting in death (Table 14.4) — roughly half received prison sentences (42.2 percent sentenced to prison, 42.6 percent other correctional placements, 15.2 percent dismissed or not guilty). The explanation for this phenomenon is partly found in Table 14.2. The large majority of those charged with class 2 felonies are ultimately convicted of class 3, 4, or 5 felonies, crimes for which offenders may not receive prison sentences.

## Conclusion

Plea bargaining and sentencing alternatives play a significant role in the criminal justice system in Colorado. Through plea bargaining, the majority of criminals are ultimately convicted of less serious crimes that carry lower penalties than the ones with which they were originally charged and may have committed. The majority of convicted felons do not get incarcerated for the crimes they were originally charged. Meanwhile, two-thirds of convicted felons receive sentences other than to prison. Nonetheless, felons convicted of more serious crimes receive a higher proportion of prison sentences than those convicted of less serious crimes.

In considering the potential level of deterrence of criminal penalties, one must take into account the odds of being apprehended for the crime, the likelihood of conviction for that crime or a lesser crime, the actual sentence if convicted, and the proportion of that sentence served. When these factors are taken into account, the real penalties for criminal behavior are lower than the statutory penalties for those crimes. Therefore, the potential deterrence of those penalties is less than it might appear.



## Chapter 15 — The Impact of the Jail Backlog on Prison Sentencing

Legislative Council Staff research finds that, since 1989, the growth rate of the Department of Corrections (DOC) population has usually varied inversely with the size of the backlog of state prisoners in local jails. This chapter examines this historical relationship.

In several judicial districts where local jails experienced large backlogs of state prison inmates during the last seven years, the percentage of felony convictions resulting in prison placement fell when the backlog was high, then rose once the backlog was reduced or eliminated. This relationship caused the rate of growth of the statewide DOC jurisdictional population to vary inversely with the size of the backlog. However, the inverse relationship between the size of the statewide jail backlog and the percentage of convicted felons sentenced to prison did not occur in those judicial districts without large backlogs of state inmates. The judicial districts without large backlogs is due to court orders requiring the DOC to transfer new inmates from county jails within 72 hours of commitment. The data indicate that, when a jail backlog results in prison inmates spending substantial portions of their sentences in county jails, some courts reduce their use of prison as a sentencing alternative, and some district attorneys accept more plea agreements without stipulated prison sentences.

There are several reasons why this may occur. In the event that capacity is severely constrained, judges are likely to sentence offenders whose crimes do not mandate a prison sentence to prison alternatives in order to assure space availability for those whose offenses require prison sentencing. Meanwhile, when sentenced DOC inmates spend six to nine months in local jails because of the backlog, sentencing someone to prison worsens offender management problems in crowded county jails. Sentencing someone to prison does not create such management problems when there is no backlog and inmates are immediately transferred to a DOC facility. Additionally, as a result of a backlog, many DOC inmates with short sentences spend a significant proportion of those sentences in local jails, which do not provide the substance abuse and other treatment programs available at DOC facilities. Thus, a prison sentence may look significantly less rehabilitative for an offender when there is a large backlog than when new inmates quickly enter state facilities. Consequently, courts may be more inclined to use sentencing alternatives, such as Intensive Supervision Probation, for such offenders. These same factors may also result in district attorneys accepting more plea bargains that do not include a stipulated prison sentence when there is a large backlog than when convicted offenders can be immediately accepted into DOC facilities. In contrast, however, we discussed our findings with four judges, including two judges from districts that have had large jail backlogs, all of whom said they did not consciously consider the jail backlog in their sentencing decisions.



## **THE JAIL BACKLOG AND THE CHANGE IN THE DOC POPULATION**

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Graph 15.1 compares the six-month moving total change in the DOC population with the six-month moving average of the statewide jail backlog for the seven-year period between 1989 and 1995. Moving averages and totals have been used in this analysis to smooth-out data that fluctuates greatly from month to month and to better illustrate trends. For example, the six-month moving average value of a variable reported for June 1994 represents the average value of the variable for the six-month period between January and June 1994. The graph shows that periods when the jail backlog was high were usually accompanied by a rate of DOC population growth significantly below average. Meanwhile, most periods of rapid prison population growth were accompanied by low levels of the jail backlog. The apparent inverse relationship is the basis for further investigation.

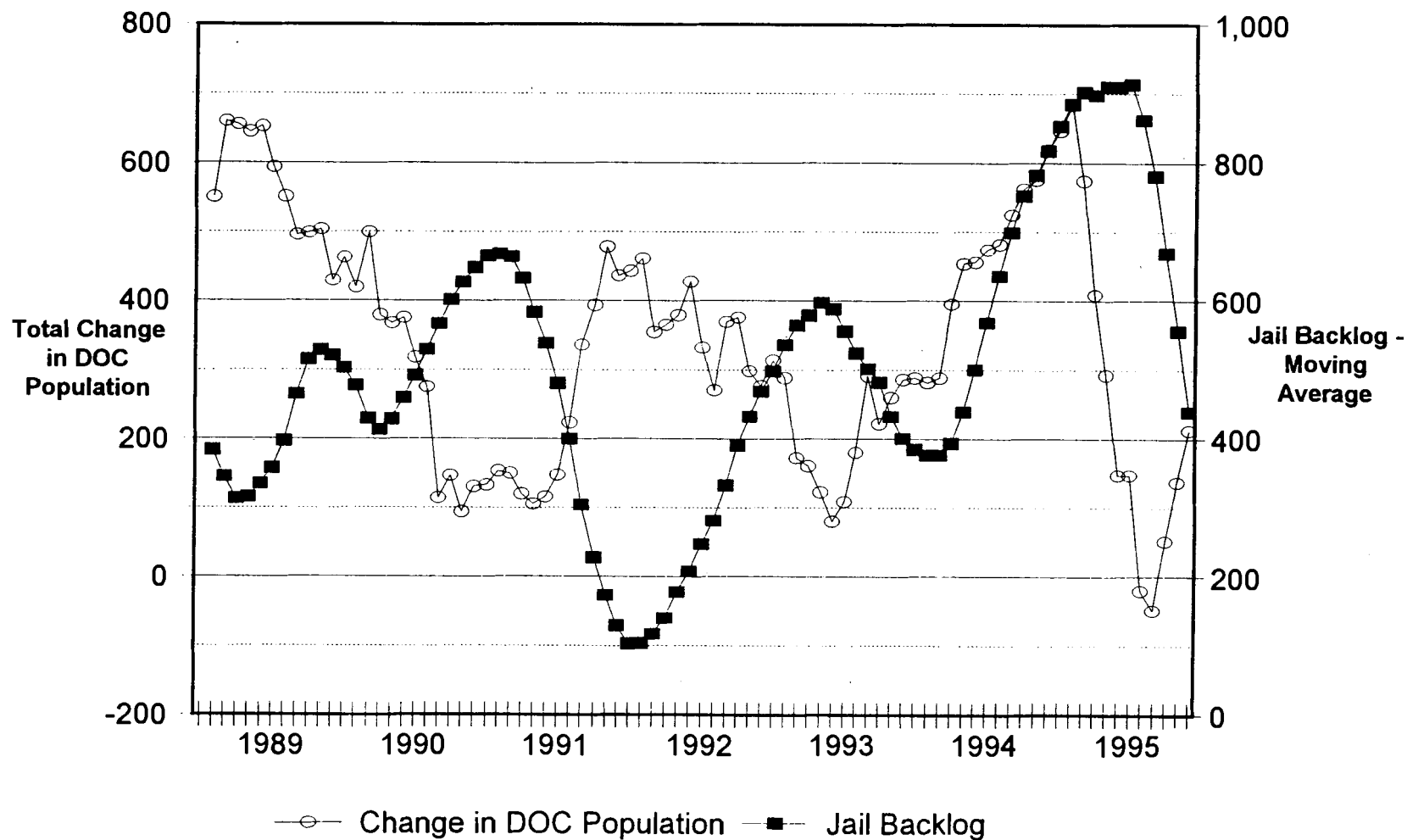
Table 15.1 shows the average jail backlog and the change in the DOC population during various six-month periods that coincide with the peaks and valleys in the size of the jail backlog. This table provides further information about the inverse relationship. For example, during the six-month period ending December 1990, the DOC population grew by 154 inmates while the jail backlog averaged 668. During the six-month period ending December 1991, the DOC population grew by 461 inmates, while the backlog averaged a low 105. During the six-month period ending April 1993, the DOC population grew by only 81, while the backlog averaged 589 inmates.

**Table 15.1: The Six-Month Average Jail Backlog  
versus the Change in the DOC Population**

<b>Six-Month Period Ending:</b>	<b>Average Jail Backlog</b>	<b>Change in the DOC Population</b>
December 1990	668	154
December 1991	105	461
April 1993	589	81
February 1994	394	395
December 1994	885	684
June 1995	862	-20

The one period when this inverse relationship did not hold was the 12 months ending December 1994, a time when both the jail backlog and the change in the DOC population were high and rising. During the six months ending December 1994, the DOC population grew by 684 inmates, while the jail backlog averaged 885 inmates. The reason for this aberration from the previously noted trend was the very low number of discretionary releases to parole by the State Board of Parole during most of 1994, rather than because of an unusually large number of new admissions. During the latter half of 1994, there were only 850 discretionary releases to parole compared with 1,292 during the first six months of 1995, 1,003 during the first six months of 1994, and 1,073 during the last six months of 1993. (Discretionary releases are releases to parole before the end of their sentence, rather than mandatory parole as required by House Bill 93-1302.) The percentage of convicted felons sentenced to prison continued to decline, however, in late 1994. Given these trends, further investigation of the relationship between the jail backlog and the DOC population is warranted.

**Graph 15.1: Jail Backlog and  
Monthly Change in the DOC Population**  
(Six-Month Moving Averages and Totals)



## **CAUSAL OR COINCIDENTAL RELATIONSHIP?**

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There are many variables that affect the size of the prison population, including the type and total amount of crime taking place, apprehension rates of criminals, the sentencing alternatives available, and laws governing the sentence length, earned time provisions, and parole eligibility of offenders sentenced to prison. All of these factors impact when and how rapidly the DOC population will grow. For example, House Bill 85-1320 doubled the maximum of presumptive sentencing ranges for most crimes. This resulted in very rapid growth in the DOC population during the ensuing five years. As a more recent example, House Bill 95-1087, which changed parole earned time provisions, resulted in the immediate release of approximately 120 parole violators during June and July of 1995. Meanwhile, the number of adult felony filings in Colorado increased 38.8 percent between FY 1988-89 and FY 1994-95, from 20,304 to 28,172.

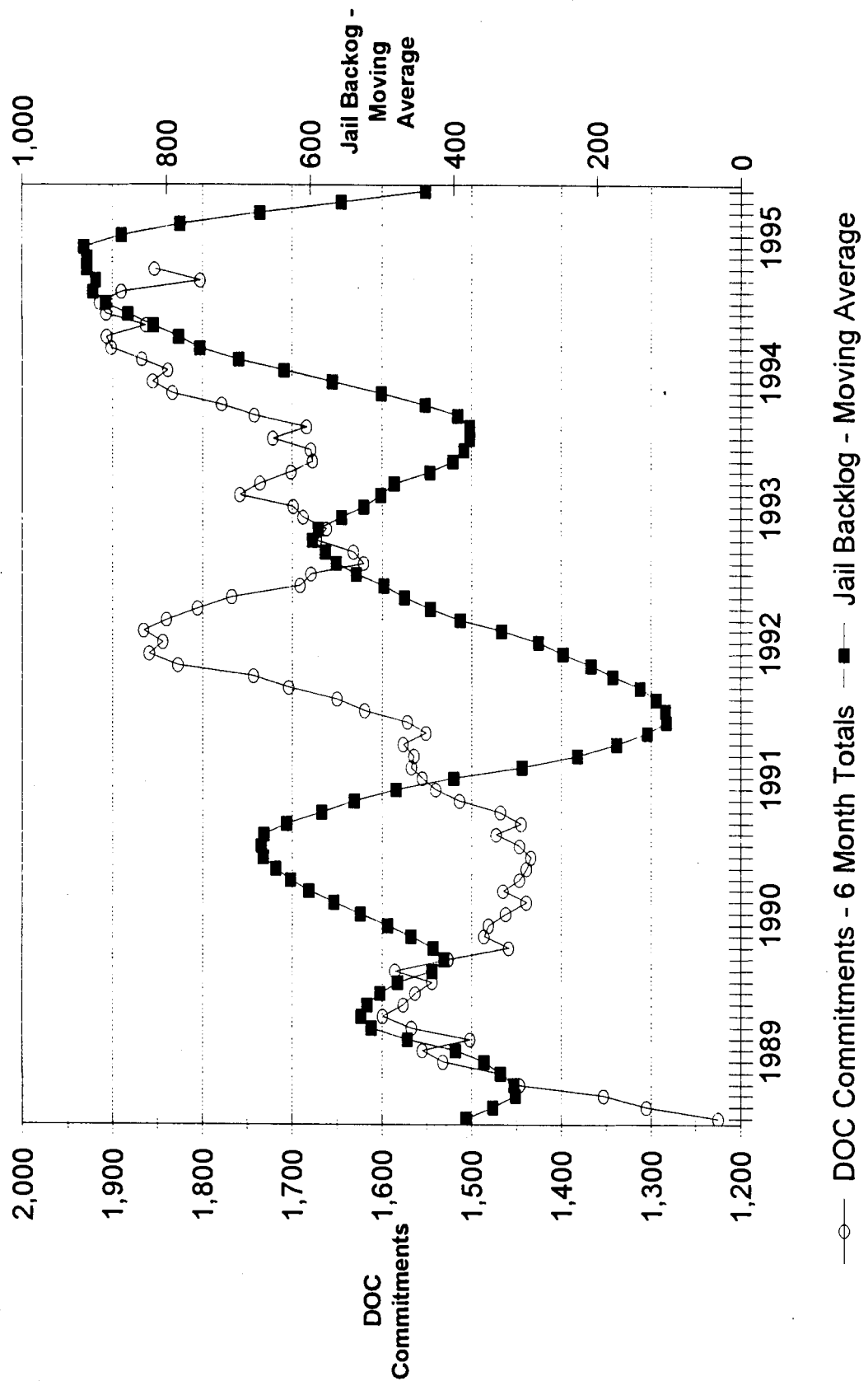
With all these changes occurring simultaneously, the peaks and valleys in the growth of the DOC population might simply represent changes influenced by other factors that have merely been coincidental with changes in the size of the backlog. It is also possible that the backlog impacts the number of inmates sentenced to the DOC, resulting in the relationship demonstrated in Graph 15.1 being causal in nature. This memorandum provides information indicating that the jail backlog is one of many influences that affect the DOC population in a causal manner. Changes in the prison population are affected both by admissions and releases. The following sections of this memorandum will examine sentencing decisions and DOC admissions to determine whether and where the jail backlog influences the number of prison commitments.

### **The Jail Backlog and the Number of Prison Commitments**

The jail backlog peaked at 971 inmates in December 1994. By December 31, 1995, the most recent date for which data are available, it stood at 193 inmates. Graph 15.2 compares a six-month moving average of the statewide jail backlog with a six-month moving total of the number of commitments to the DOC for new crimes. It shows that the number of new court commitments and the jail backlog have often moved in opposite directions.

Jail backlogs do not exist in all counties throughout the state, however. Because of court orders involving seven Colorado counties — Denver, Jefferson, Mesa, Garfield, Kit Carson, La Plata and Routt — the DOC is required to remove new DOC inmates from those county jails within 72 hours of their commitment to the DOC. In those seven counties, the backlog of state inmates remains small. In other counties throughout the state that are not under such court orders, a backlog of state inmates has developed in county jails. At times, inmates committed to the DOC remained in county jails for six to nine months before being admitted into state prison facilities. Therefore, in determining whether the backlog influences commitments to prison, it is necessary to compare trends in counties where the DOC has been under a 72-hour court order that prevents a backlog from developing with those that do not have such an order and may experience large backlogs of state inmates. The following section provides this comparison.

**Graph 15.2: Total DOC Admissions  
and Statewide Jail Backlog**



## **Percent of Felony Convictions Resulting in a DOC Placement**

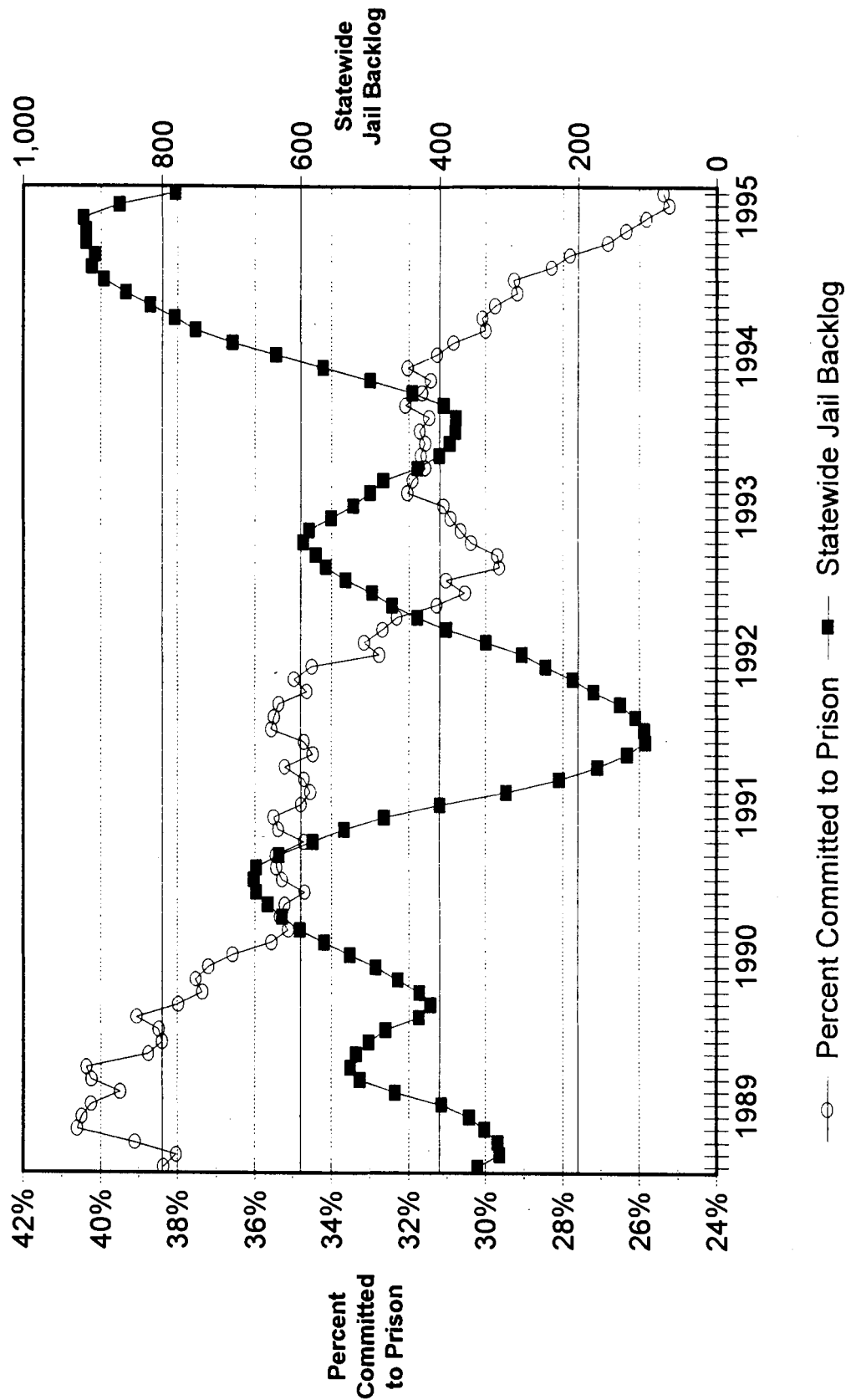
Because the number of DOC commitments is influenced by the varying number of criminal court cases, a more meaningful concept for analyzing whether courts are influenced by the jail backlog is the percentage of convicted felons given prison sentences. This percentage was derived from the Colorado District Attorneys' Council (CDAC) data base that includes current data on the criminal charge, disposition, and sentencing of all court cases in all but four of Colorado's 22 judicial districts. Unlike the number of DOC commitments, the percentage of convicted felons sentenced to the DOC is not directly influenced by the total amount of crime taking place. Graph 15.3 compares the size of the statewide jail backlog with the percent of total felony convictions resulting in a DOC placement in eight Front Range judicial districts - Districts 1, 2, 4, 8, 10, 17, 18, and 19. The analysis was limited to these eight judicial districts because historical data on the placement of convicted felons from the CDAC database going back to 1989 were not available for the rest of the state. Since these eight judicial districts together accounted for 84 percent of felony filings and 82 percent of prison commitments in the state during 1994, overall statewide trends would be observed in these districts. The geographical composition of the judicial districts is as follows:

District 1	Jefferson and Gilpin counties
District 2	Denver County
District 4	El Paso and Teller counties
District 8	Larimer and Jackson counties
District 10	Pueblo County
District 17	Adams County
District 18	Arapahoe, Douglas, and Elbert counties
District 19	Weld County

Overall, the most noteworthy feature of Graph 15.3 is the downward trend in the percentage of total felony convictions resulting in a prison sentence, from a high of 41 percent in early 1989 to a low of 25 percent in the six months through June 1995. The gradual decline in the use of prison as a sentencing alternative may result partly from a changing mix of crimes. For example, convictions for drug offenses, which have relatively low rates of prison incarceration compared with convictions for violent or property crimes, have been rising as a percentage of total felony convictions. It also suggests that the General Assembly's attempts to divert more low-risk offenders away from prison through the expansion of sentencing alternatives, such as community corrections and intensive supervision probation, have been somewhat successful.

Taken as a whole, the percentage of felons given prison sentences does not exhibit a very obvious relationship with the size of the jail backlog. Nonetheless, the most rapid drops in the percentage of total felons who were sentenced to prison occurred in 1990, 1992, 1994, and early 1995, simultaneous with high or rising levels of the backlog. When analyzed by comparing those counties with a court order to those without such an order, a clear trend emerges, however.

**Graph 15.3: Backlog and Percent of Felony  
Convictions Resulting in Prison**  
*Six-Month Moving Averages*



Graph 15.4 compares the percentage of felony convictions resulting in prison sentences with the *statewide* jail backlog in the six judicial districts for which we have data — Districts 4, 8, 10, 17, 18, and 19 — where the DOC is not under a court order requiring them to gather inmates within 72 hours of commitment. From this point forward in the memorandum, these districts will be referred to as “jail backlog districts.” Graph 15.5 compares the percentage of felony convictions resulting in prison sentences with the *statewide* jail backlog in the two judicial districts — Districts 1 and 2 — with court orders requiring the DOC to admit committed prisoners within 72 hours. These two judicial districts will be referred to as “court-order districts.” Because of the court orders, the backlog in Districts 1 and 2 is small, while the other six districts together account for most of the state’s total jail backlog.

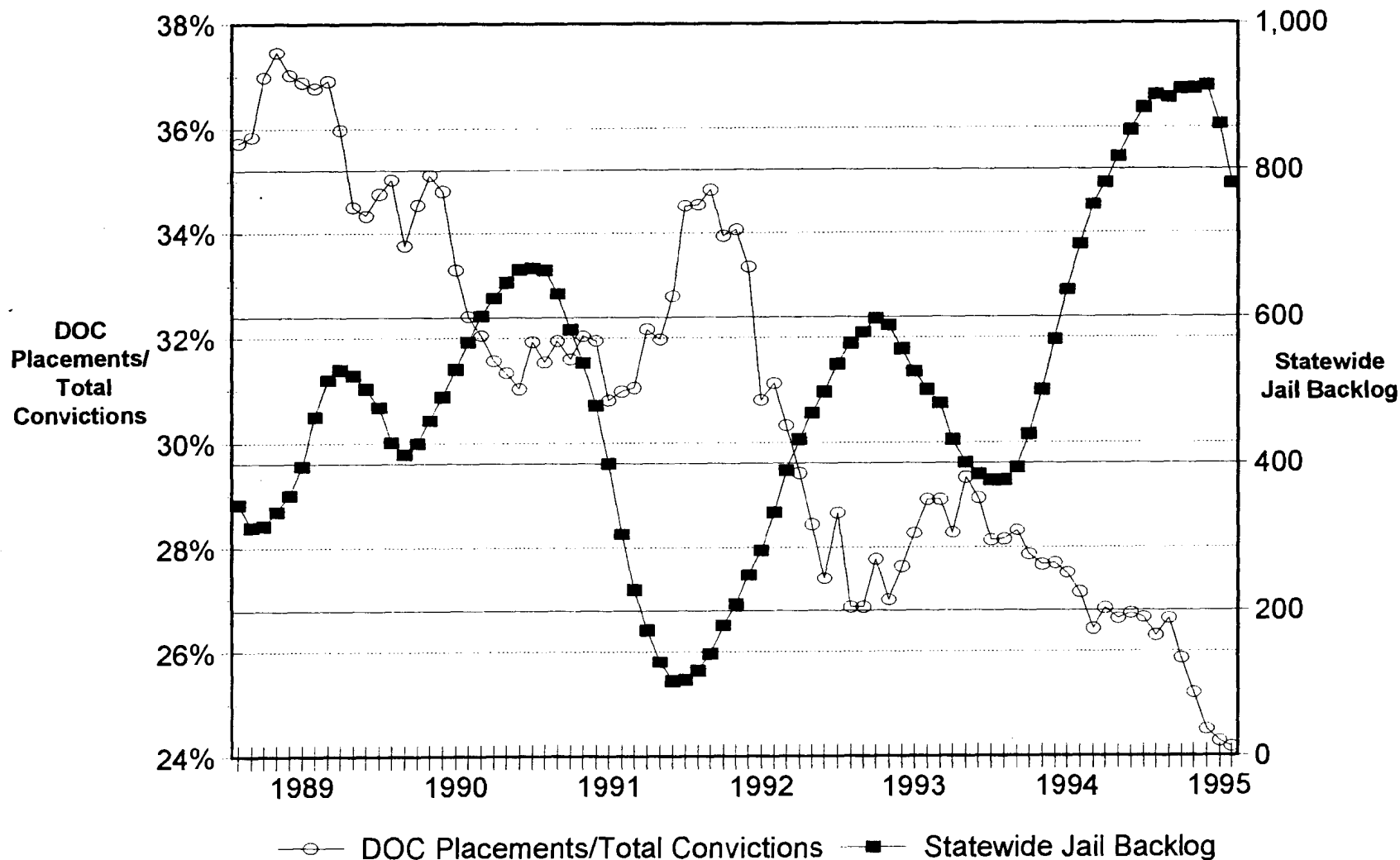
***Jail Backlog Districts.*** In the six districts where the DOC is not under a 72-hour court order, the percentage of convicted felons sent to prison displayed a strong inverse relationship with the size of the *statewide* jail backlog. While the general direction of convictions sentenced to prison declined during the last several years, the most precipitous drops occurred at times of high and rising backlogs. Meanwhile, declines in the backlog were accompanied by simultaneous increases in the percentage of convicted felons sentenced to prison.

As Graph 15.4 shows, the percentage of felons sentenced to prison in these six districts peaked at 37 percent of convictions in 1989. Prison sentences dropped to 31 percent of convictions in the six months ending December 1990, a time when the average backlog rose to 668 inmates. Prison sentences then rose again to nearly 35 percent of convicted felons in the six months ending in December 1991, when the backlog averaged only 105 inmates. The percentage dropped to 27 percent during the six months ending April 1993, as the backlog averaged 589 inmates. This pattern continued more recently, with the percentage of convicted felons sentenced to prison dropping to 25 percent in the six-month period ending May 1995, when the backlog averaged 914 inmates. A one percentage point fluctuation in the proportion of felony convictions sentenced to prison in the six jail backlog districts equates to approximately 70 prison commitments annually at current levels of felony convictions in these districts. Thus, small changes in this percentage have large effects on the prison population.

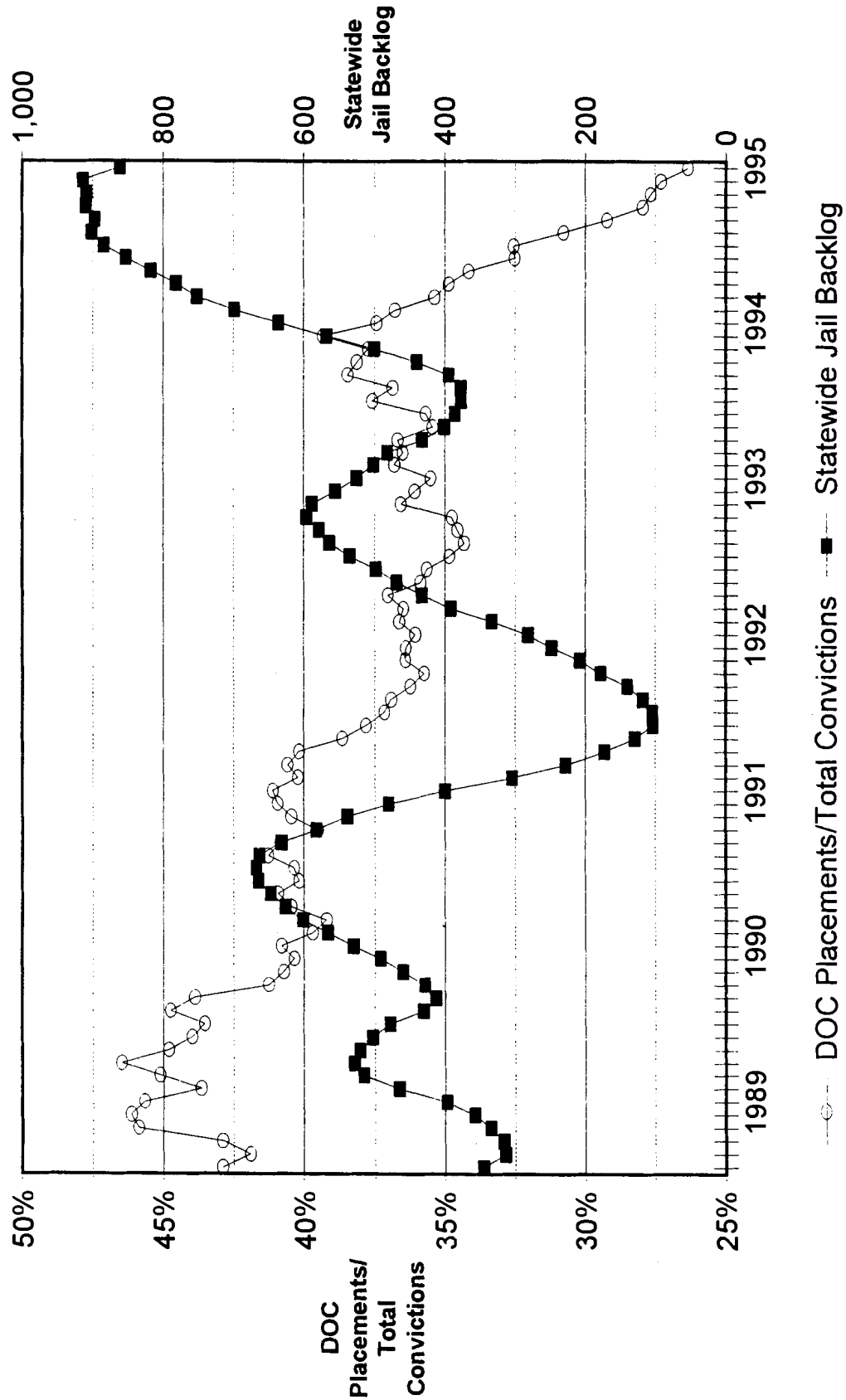
***Court-Order Districts.*** Although showing a downward trend, the percentage of felons sentenced to the DOC in Districts 1 and 2 (which are under court orders) does not exhibit a clear relationship with the size of the *statewide* jail backlog. The percentage of felons given prison sentences has fallen from a high of 46 percent in the first half of 1989 to 27 percent during the six months through June 1995. The most precipitous drop occurred in FY 1994-95, concurrent with a doubling in the number of felony filings and convictions for drug offenses in Denver resulting from Denver’s new drug court. Because drug offenders are less likely to be sent to prison than other convicted felons, the growth in convictions for drug-related offenses had the effect of lowering the overall percentage of convicted felons sentenced to prison in Denver.



# **Graph 15.4: Backlog and Prison Sentences 6 Judicial Districts Without Court Orders**



**Graph 15.5: Backlog and Prison Sentences  
2 Judicial Districts Under Court Order**



A second factor to consider is that the percentage of convicted felons sentenced to prison was significantly higher (by 1.4 to 11.6 percentage points) through the entire seven-year period in the two court-order districts than it was in the six districts where the backlog fluctuated. This may partially be because of a different mix of crimes occurring between the groups or because of different sentencing practices among judges in the two sets of districts. However, during the six-month period in late 1991 when the backlog was at its lowest, the percentage of convicted felons sent to prison in the court-order districts (36.2 percent) and the jail backlog districts (34.8 percent) was nearly equal, further suggesting that the backlog plays a role in reducing prison commitments. The greatest difference between the two sets of districts occurred in the six months ending in May 1994, a period when the backlog was above average at 569 inmates. During this time, 39.3 percent of convicted felons in the two court-order districts were sent to prison, while only 27.7 percent of those in the six jail backlog districts received prison commitments, an 11.6 percentage point difference.

Graphs 15.6 through 15.13 following the text display the size of the jail backlog with the percentage of convicted felons sentenced to prison in each district between 1989 and 1995. The relationship between the size of the jail backlog and the use of prison as a sentencing alternative exists in several of the judicial districts that have had substantial jail backlogs at times.

***Adams County.*** The inverse relationship between the jail backlog and prison commitments has been the most pronounced in the 17th Judicial District (Adams County). As demonstrated in Graph 15.11, during the last six years the percentage of convicted felons sentenced to prison in Adams County fluctuated dramatically in a pattern that is directly inverse to the size of the backlog of state inmates in the county jail. For example, in the 17th Judicial District, the percentage of convicted felons sent to prison hit a low of 30.4 percent during the six-month period ending November 1990, simultaneous with a peak of the jail backlog of 107 state inmates in Adams County's jail. During the six-month period ending January 1992, however, the percentage of convicted felons sent to prison in the 17th Judicial District peaked at 50.4 percent. The average size of the jail backlog in the district during that period hit a low of 4.5 inmates. This pattern has persisted more recently as well.

***El Paso and Teller Counties.*** The 4th Judicial District (El Paso and Teller counties) is another district where the relationship between the jail backlog and the percentage of convicted felons sentenced to prison has been quite pronounced, as displayed in Graph 15.8. The percentage of convicted felons sentenced to prison in the 4th Judicial District peaked at 36.4 percent during the six months ending in December 1991, a period when the jail backlog in 4th Judicial District county jails averaged 9 inmates. Similarly, the lowest percentage (20.4 percent of convicted felons) sentenced to prison in the 4th Judicial District coincided with the peak of the jail backlog at 178 inmates in the six-month period ending April 1995.

**Pueblo County.** In the 10th Judicial District (Pueblo County), a clear relationship between the size of the jail backlog first emerged in 1992 (Graph 15.10). During the periods subsequent to 1992 when the average backlog of state inmates in Pueblo County jails dropped below 15, prison commitments rose above 35 percent of felony convictions. Meanwhile, the lowest rate of prison sentencing (20.6 percent) in the 10th Judicial District coincided with its highest average jail backlog (35 inmates) during the six months ending in April 1995.

**Weld County.** The 19th Judicial District (Weld County) did not experience a significant backlog of state inmates until 1992 (Graph 15.13). At different times from 1989 to 1992, between 24 and 41 percent of convicted felons were sentenced to prison in Weld County. The percentage of convicted felons sentenced to prison dropped to a low of 15 percent in the six-month period ending April 1995, coinciding with the 70 inmate peak in the jail backlog in the county's jail.

**Other Districts.** The relationship between the jail backlog and the use of prison sentencing has been less evident, however, in the 8th and 18th Judicial Districts, which have also experienced large backlogs of state inmates. Because of a court order the backlog in the 1st Judicial District (Jefferson and Gilpin counties) was negligible throughout the period examined. Although the DOC is also under court order in Denver (the 2nd Judicial District), the district experienced one spike in the size of its typically small backlog in 1992. This temporary increase in the backlog coincided with a drop of several percentage points in the use of prison sentencing.

The reasons for a stronger relationship between the jail backlog and prison sentencing in some judicial districts than in other districts are uncertain, as are the reasons for the emergence of such a relationship in Pueblo (the 10th Judicial District) only since 1992. Sentencing reflects the decisions of a small group of judges, as few as three or four people in several of the districts we examined. Some judges may be more influenced in their sentencing by the size of the backlog than others. A backlog of prison inmates may be more likely to influence sentencing decisions in places where it creates a bigger management problem in local jails, such as at times when local jails are the most crowded with convicted misdemeanants and accused felons awaiting trial. A similarly sized backlog may be less likely to reduce prison sentencing in a county if a new jail facility opens and reduces the overall level of jail crowding in the county, resulting in the backlog of state inmates posing less of a management problem.

Sentencing is also influenced by the plea bargaining process through which 97 percent of felons are convicted. Since placements and sentence lengths are often stipulated as part of a plea agreement, the fluctuations in prison sentencing examined in this memorandum represent the decisions made by district attorneys as well as judges.

## **THE IMPACT OF INCREASING PRISON CAPACITY**

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Legislative Council Staff's economic modeling consistently shows a statistically significant relationship between the change in the DOC capacity, lagged two quarters, with the number of prison commitments. Periods of high growth in prison capacity are frequently followed by more rapid growth in the prison population. This may be interpreted to suggest that increases in prison sentencing occur in response to additional capacity becoming available. However, research suggests that the relationship between changes in prison capacity and prison admissions works indirectly through the size of the backlog of state inmates in local jails, and that the use of prison as a sentencing alternative has been constrained by capacity limitations.

A stronger relationship exists between the jail backlog and the percentage of felony prison commitments than between prison capacity changes and the number of felons sentenced to prison. This is shown by the disparity between the court-order judicial district (transfer inmates within 72 hours of sentencing) and the noncourt-order districts where a backlog exists. The changes in the percentage of convicted felons sentenced to prison in districts that have had jail backlogs show that, when faced with the problem of large populations of state inmates in local jails, some courts limit their use of prison sentences. When the backlog is reduced or eliminated after new DOC capacity has been built, the proportion of felons sent to prison rises again, resulting in more rapid growth in the DOC inmate population.

However, the percentage of felons sentenced to prison does not rise in those districts where the DOC is under a 72-hour court order. If the statewide increase in DOC admissions that follows additions to prison capacity was caused by additional capacity stimulating the use of prison as a sentencing alternative, the percentage of convicted felons sentenced to prison would be expected to fluctuate in the court-order districts as well as in the jail backlog districts. This is because changes to prison capacity are a statewide, rather than local, variable. This is not the case. The difference between the use of prison sentencing in court-order and jail backlog districts indicates that high jail backlogs somewhat limit the use of prison as a sentencing alternative, rather than new prison capacity directly stimulating the use of prison sentencing.

## **THE OBSERVATIONS OF JUDGES**

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Legislative Council Staff conducted interviews with four district court judges on numerous issues related to sentencing, including the relationship between capacity and their use of prison as a sentencing alternative. None of the four judges said they took capacity limitations or the size of the jail backlog in their districts into consideration when making sentencing decisions. Several also commented that they did not believe their colleagues were influenced significantly by prison capacity limitations. One judge suggested that the widespread belief that overall prison capacity was inadequate might have some subconscious impact on judges' sentencing, but thought it would be small, if present at all.

Two of the four judges agreed that overcrowding in local jails, to which a backlog of state prison inmates contributes, may influence the sentencing of misdemeanants, but did not think it would influence the sentencing of felons. One judge commented that he is sometimes informed of the size of the jail population in his district, but is not told how many of them are state inmates. Another judge said that judges in his judicial district are regularly informed of the size of the state inmate jail backlog by the county sheriff. However, he views offender population management as an executive branch issue that should not influence the placement decisions of courts.

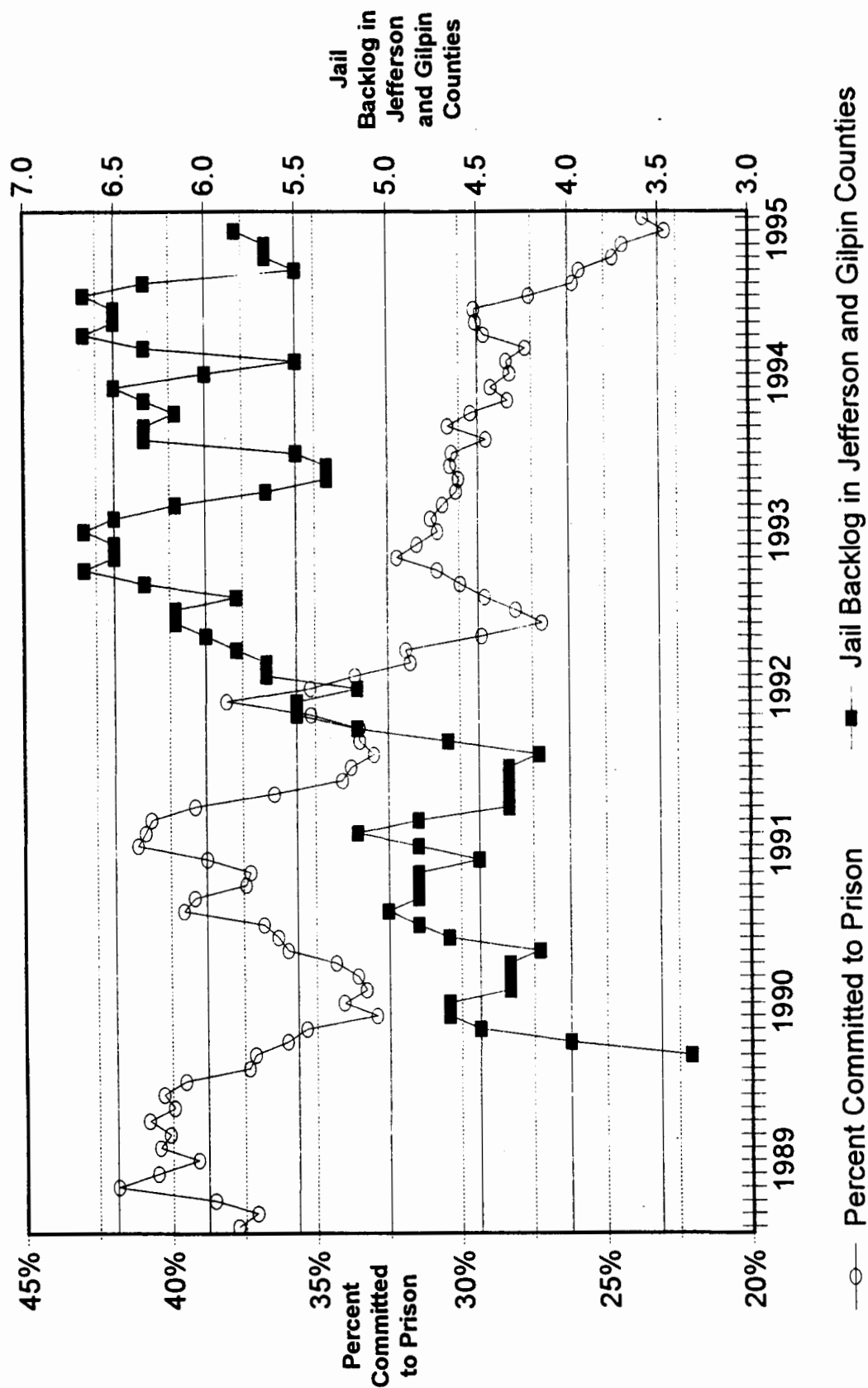
Although none of the four judges with whom we spoke provided support for the conclusions drawn from the data in this memorandum, it must be recognized that these interviews were conducted with only a small number of judges. Also, while the data indicate a clear relationship over time between the size of the jail backlog and the use of prison as a sentencing alternative, they do not imply that all, or even the majority of, judges are influenced by the backlog. Judges may also be reluctant to acknowledge that sentencing is influenced by external considerations as well as the offender's crime and criminal history if those external factors may not be regarded as appropriate to take into account in sentencing a convicted felon.

### **Conclusion**

During the last seven years, the number of prison commitments and the percentage of convicted felons sentenced to prison in Colorado varied inversely with the size of the statewide backlog of prison inmates in county jails. This partly explains the variation in prison population growth rates during the period. This relationship, however, has only been exhibited in judicial districts where significant backlogs developed at specific times in county jails. These fluctuations in the use of prison as a sentencing alternative did not take place to any significant degree in those judicial districts where the Department of Corrections is required by court order to transfer new inmates from county jails to its facilities within 72 hours of sentencing. This disparity indicates that when the backlog of state inmates in county jails results in those inmates spending substantial portions of their sentences in county jails of the judicial districts

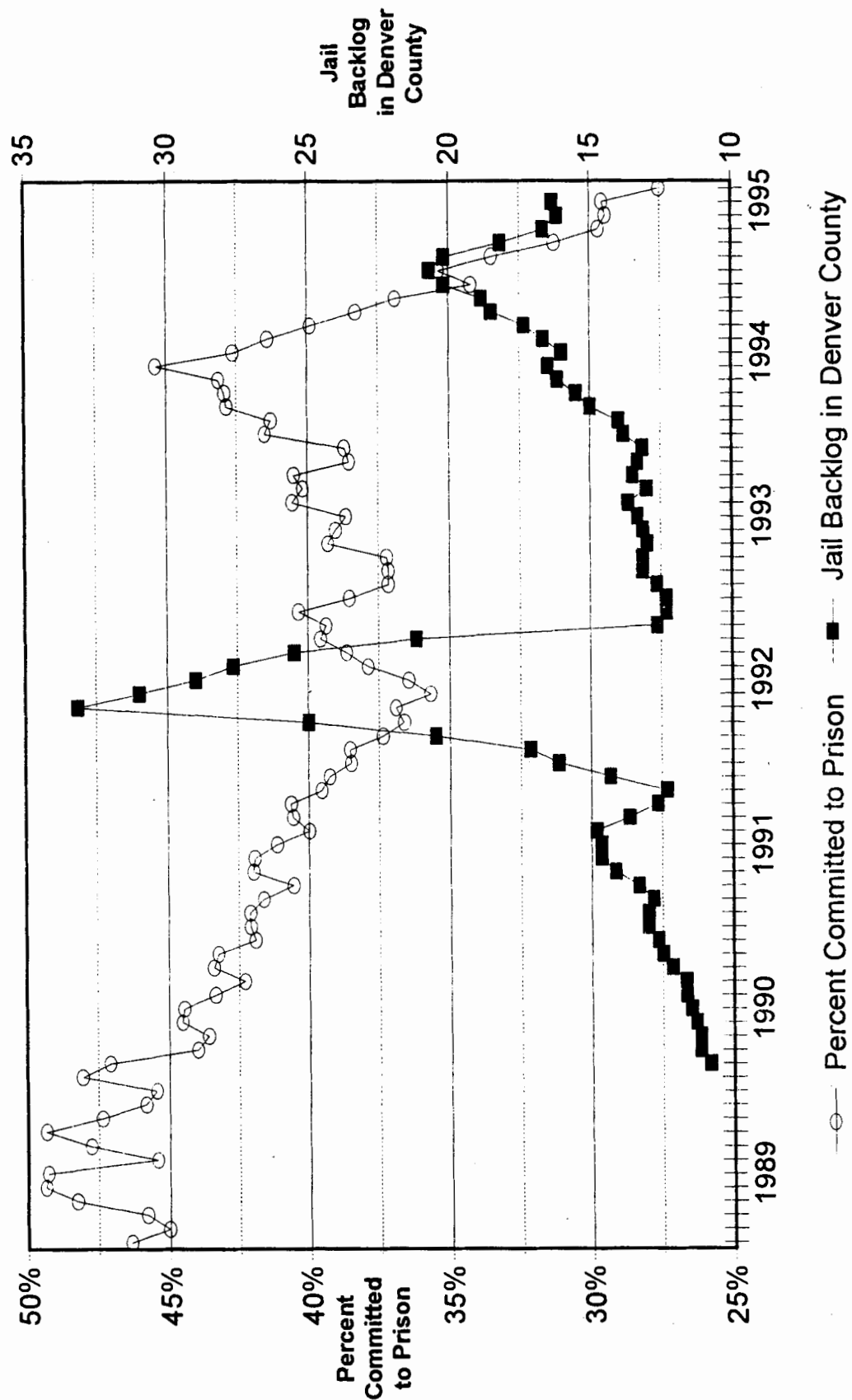
from which they have been sentenced, some courts, perhaps subconsciously, limit their use of prison as a sentencing alternative. Also, the plea bargaining process may change in response to a large jail backlog, as District Attorneys accept more plea agreements that do not stipulate a prison sentence as part of the agreement. Thus, as a result of the jail backlog, some offenders who might otherwise have been sentenced to prison, have received alternative correctional placements. The small sample of judges with whom we spoke, however, said they did not take the size of the jail backlog in their districts into account in their placement decisions.

**Graph 15.6: Percent of Felony Convictions  
Committed to Prison - Jefferson and Gilpin Counties**

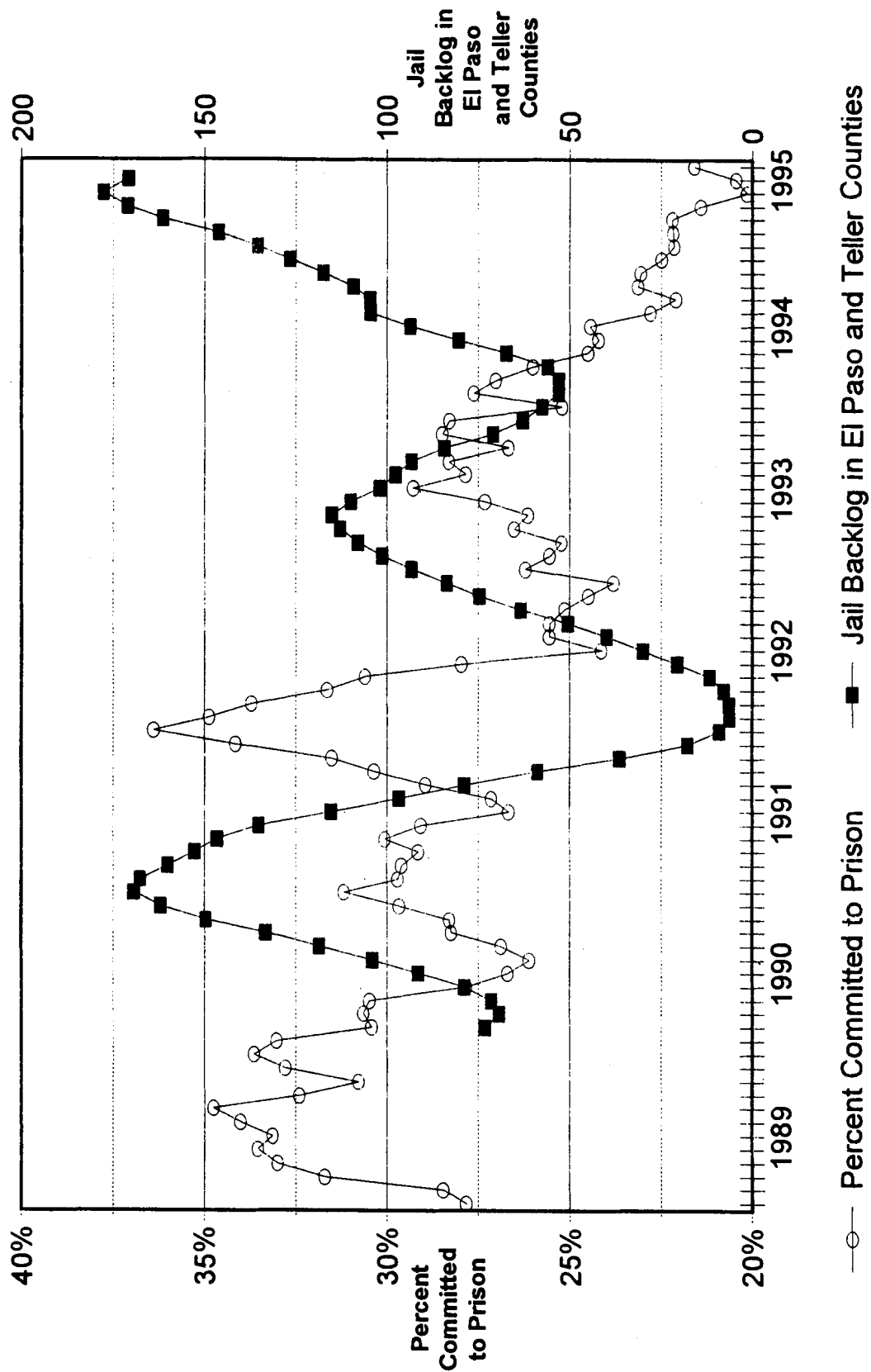




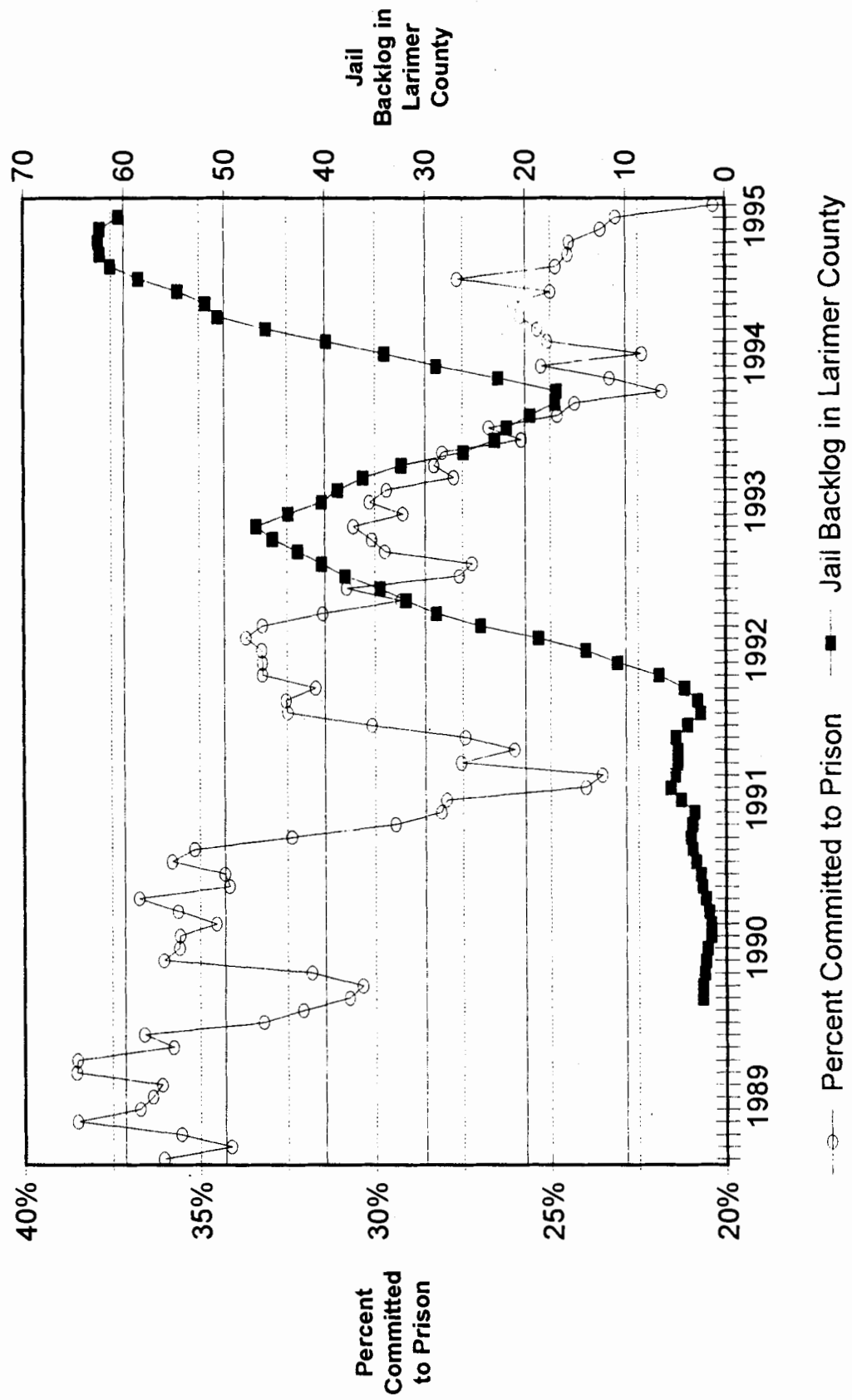
**Graph 15.7: Percent of Felony Convictions  
Committed to Prison - Denver County**



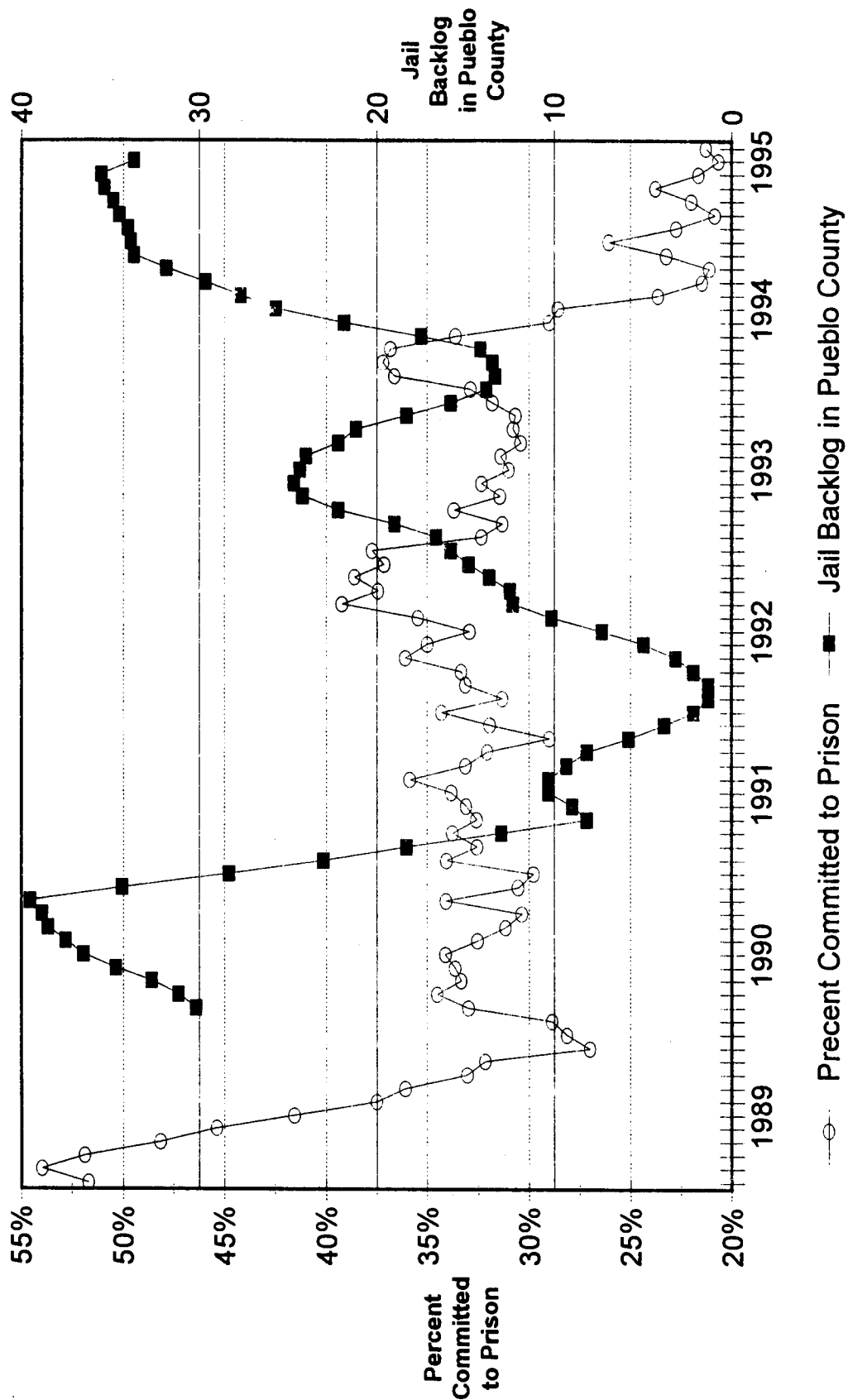
**Graph 15.8: Percent of Felony Convictions  
Committed to Prison - El Paso and Teller Counties**



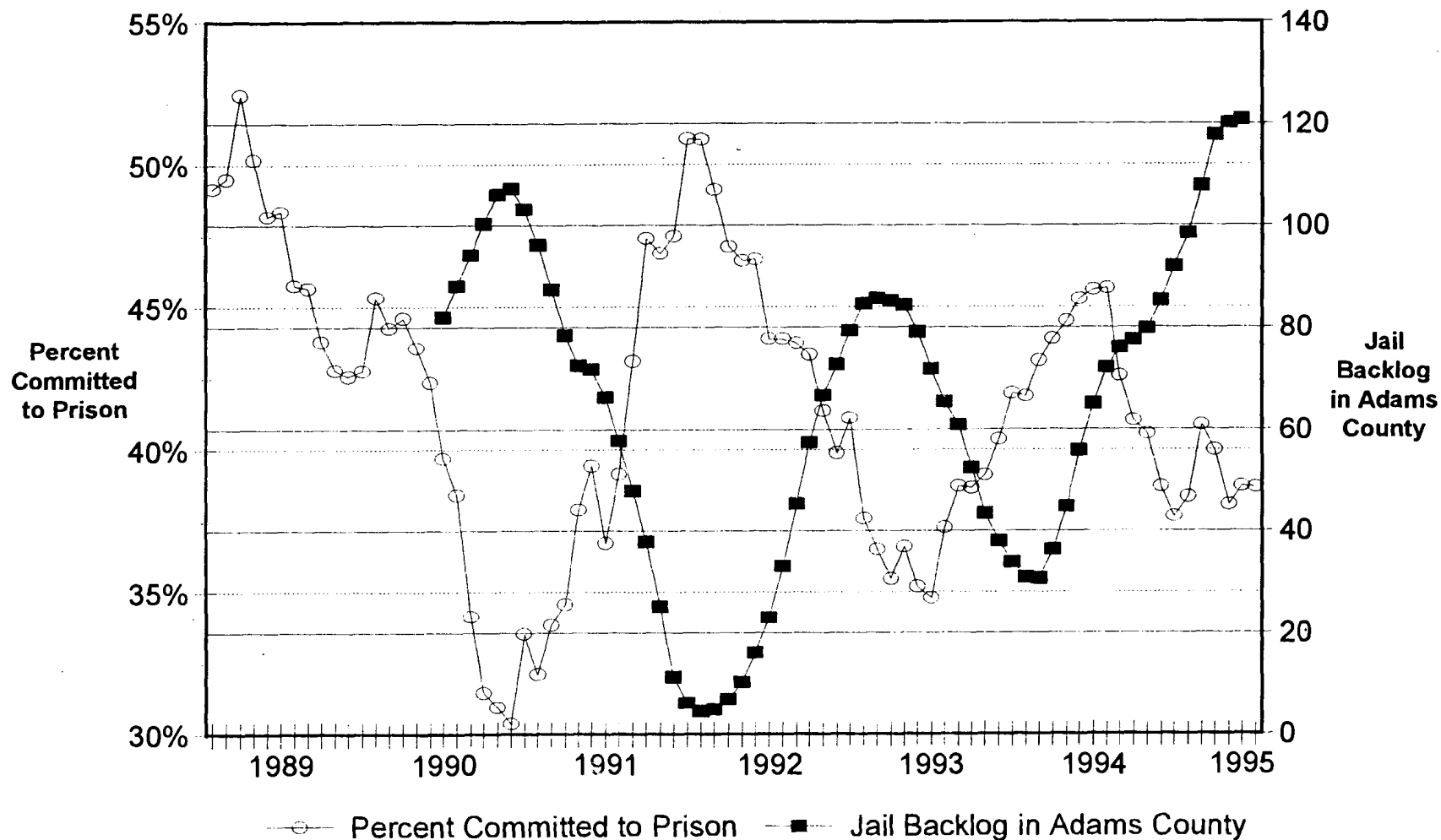
**Graph 15.9: Percent of  
Committed to Prison - Larimer County**



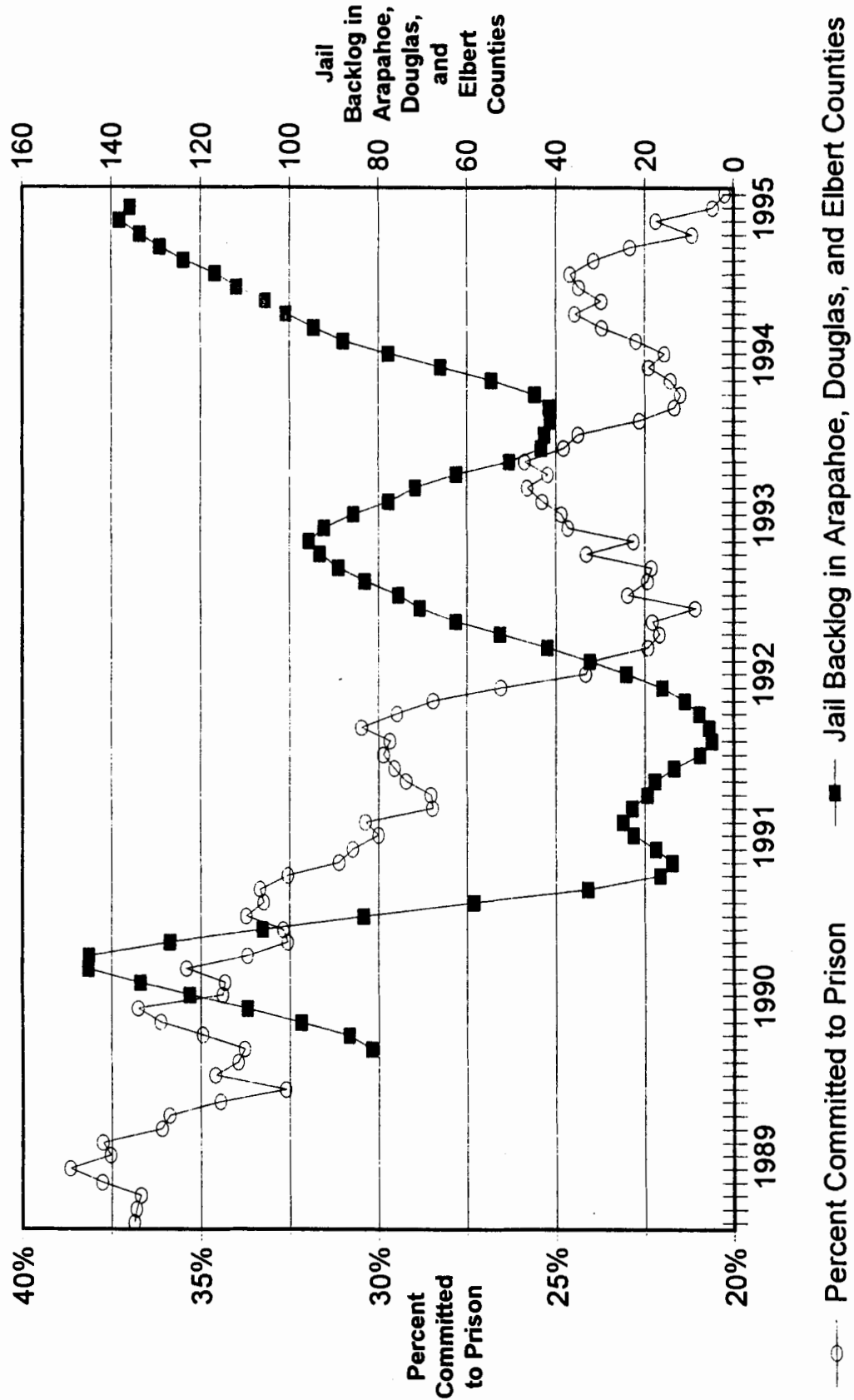
**Graph 15.10: Percent of Felony Convictions  
Committed to Prison - Pueblo County**



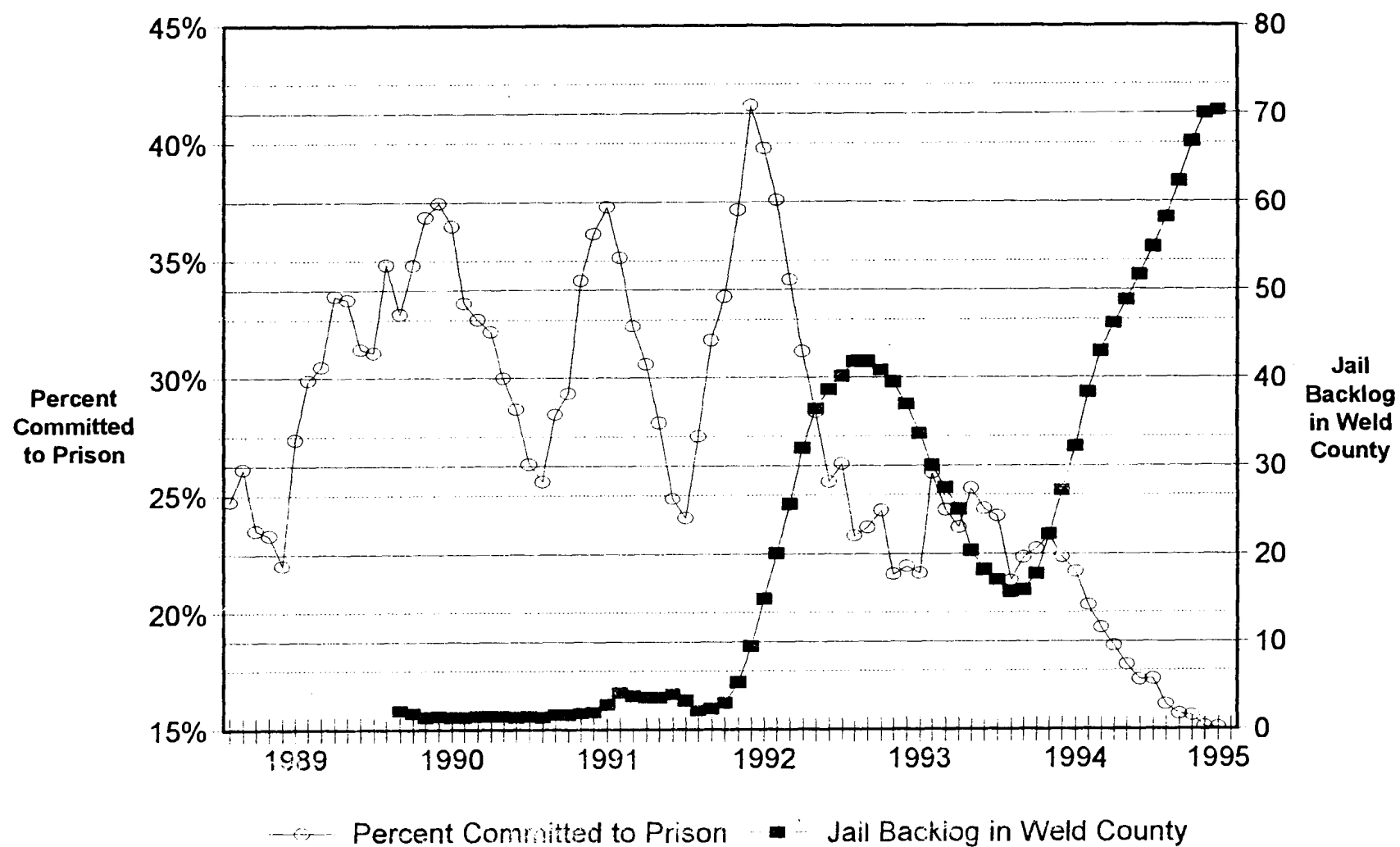
**Graph 15.11: Percent of Felony Convictions  
Committed to Prison - Adams County**



**Graph 15.12: Percent of Felony Convictions Committed to Prison - Arapahoe, Douglas, and Elbert Counties**



**Graph 15.13: Percent of Felony Convictions  
Committed to Prison - Weld County**



## **Chapter 16 — Analysis of Truth in Sentencing Alternatives**

This section discusses the results of analyses conducted by Legislative Council Staff on the impact of different versions of "Truth in Sentencing" legislation that were proposed or evaluated during the 1995 session of the Colorado General Assembly on the Department of Corrections (DOC) prison and parole populations. While truth in sentencing may be broadly defined as a law change requiring DOC inmates to serve a greater proportion of their prison sentences, the prison population and fiscal impacts vary widely depending upon the inmates to whom truth in sentencing legislation would apply and the percentage of their sentences the inmates would be required to serve.



The "Violent Crime Control and Law Enforcement Act of 1994," passed by Congress, authorized two categories of federal grants to states to be used to construct, develop, expand, modify, operate, or improve correctional facilities. The law authorized future appropriations of grants totaling up to \$7.9 billion nationally between federal FY 1995-96 and FY 2000-01 to states that can prove that, since 1993, they have: (1) increased the percentage of convicted violent offenders sentenced to prison; (2) increased the average time served in prison by violent offenders; (3) increased the percentage of sentences served in prison by violent offenders; and (4) laws requiring that violent offenders serve at least 85 percent of their sentences. Several of the versions of truth in sentencing analyzed in this chapter meet the requirements of the federal law. Other versions do not, either because they do not apply to all violent offenders, or because they do not require all violent offenders to serve at least 85 percent of their sentences.

The eleven versions of truth in sentencing analyzed in this chapter are by no means exhaustive of all possibilities, particularly since they apply only to inmates convicted of offenses defined as violent. The five-year, ten-year, and fifteen-year impacts on the DOC population are estimated as if such a law changes go into effect on July 1, 1996, and assume a four percent annual growth rate in new prison commitments.

These analyses do not assume any changes in judicial sentencing behavior in response to the law changes. We have assumed that truth in sentencing legislation will not change the sentence length of offenders, but that offenders will serve a greater proportion of their sentences and will be incarcerated for a longer period of time. However, the response of judges to such legislation is uncertain. For example, someone convicted of felony class 3 aggravated robbery (presumptive range of four to sixteen years) may receive a prison sentence of eight years and might currently be expected to serve approximately half of that sentence due to earned time and parole eligibility provisions. Under a hypothetical truth in sentencing law requiring violent offenders to serve 100 percent of their sentences, this offender would serve his entire sentence. We have assumed that this offender would spend eight years in prison, although it is possible that such a law change might result in judges handing down somewhat shorter sentences, mitigating the DOC population impact somewhat.

## **ALTERNATIVE VERSIONS OF TRUTH IN ~~SENTENCING AND THEIR IMPACTS ON PRISON POPULATIONS~~**

Versions 1 through 5 were originally estimated for House Bill 95-1185, and versions 6 and 7 were estimated for House Bill 95-1066. Versions 8 through 11 are additional estimates of the impact of raising violent offenders' length of stay through changes in earned time and parole eligibility statutes. The 11 versions are summarized as follows:

- Version 1:** Require only those convicted of a crime of violence under Section 16-11-309, C.R.S., as stated on the mittimus, to serve 100 percent of their sentence. We estimate that this version of truth in sentencing will increase the prison population by 15 inmates in FY 2001-02.
- Version 2:** Require only those convicted of a crime of violence under Section 16-11-309, C.R.S., as stated on the mittimus, to serve 85 percent of their sentence. We estimate that this version of truth in sentencing will increase the prison population by 11 inmates in FY 2001-02.
- Version 3:** Require those convicted of a crime of violence as defined by Section 16-11-309, C.R.S., to serve 100 percent of their sentence. We estimate that this version of truth in sentencing will increase the prison population by 543 inmates in FY 2001-02.
- Version 4:** Require those convicted of a crime of violence as defined by Section 16-11-309, C.R.S., to serve 85 percent of their sentence. We estimate that this version of truth in sentencing will increase the prison population by 360 inmates in FY 2001-02.
- Version 5:** Require all felony class 2 offenders to serve 100 percent of their sentence. We estimate that this version of truth in sentencing will increase the prison population by 5 inmates in FY 2001-02.
- Version 6:** Require those convicted of crimes against persons, including crimes of violence as defined by Section 16-11-309, C.R.S., simple robbery, manslaughter, and crimes against children to serve 85 percent of their sentence. We estimate that this

version of truth in sentencing will increase the prison population by 415 inmates in FY 2001-02.

**Version 7:** Require those convicted of second degree murder, first degree kidnap, aggravated robbery, first degree assault, and first degree sexual assault to serve 85 percent of their sentence. We estimate that this version of truth in sentencing will increase the prison population by 120 inmates in FY 2001-02.

**Version 8:** Eliminate earned time for those convicted of offenses against persons, defined as those convicted of a crime of violence as stipulated in Section 16-11-309, C.R.S., simple robbery, manslaughter, and crimes against children. We estimate that this version of truth in sentencing will increase the prison population by 270 inmates in FY 2001-02.

**Version 9:** Require those convicted of crimes against persons, defined as those convicted of a crime of violence as denoted in Section 16-11-309, C.R.S., simple robbery, manslaughter, and crimes against children, to serve 75 percent of their sentence, less earned time, before becoming eligible for parole. We estimate that this version of truth in sentencing will increase the prison population by 196 inmates in FY 2001-02.

**Version 10:** Eliminate parole eligibility for those convicted of crimes against persons, defined as those convicted of a crime of violence as stipulated in Section 16-11-309, C.R.S., simple robbery, manslaughter, and crimes against children, but continue to allow them to receive earned time while in prison. We estimate that this version of truth in sentencing will increase the prison population by 373 inmates in FY 2001-02.

**Version 11:** Eliminate earned time for those convicted of crimes against persons, defined as those convicted of a crime of violence as denoted in Section 16-11-309, C.R.S., simple robbery, manslaughter, and crimes against children, and require them to serve at least 75 percent of their sentence before becoming eligible for parole. We estimate that this version of truth in sentencing will increase the prison population by 473 inmates in FY 2001-02.

## VERSION 1

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This version of truth in sentencing would require only those convicted of a *crime of violence under Section 16-11-309, C.R.S., as stated on the mittimus*, to serve 100 percent of their sentences. This was the original version of House Bill 95-1185. While there are many people convicted of violent offenses as defined by Section 16-11-309, C.R.S., and many sentenced in accordance with its provisions, there are relatively few convictions or admissions to the DOC in which a Section 16-11-309, C.R.S., sentence is specified on the mittimus. We estimate this change would impact 80 admissions to the DOC in FY 1996-97, growing by four percent annually after that date. The sentences of those convicted for said crimes tend to be long, so there would be little impact in the first five years resulting from this proposal. Relatively few inmates convicted of Section 16-11-309, C.R.S., crimes of violence, as stated on the mittimus, committed after July 1, 1996, would be expected to be released from prison by FY 2001-02 under current law. Thus, requiring such offenders to serve 100 percent of their sentences would have little impact during the time frame for which a statutory appropriation must be made, increasing the prison population by 15 and decreasing the parole population by 13 by FY 2001-02. It should be noted that the impact of this change would grow significantly in the more distant future. We estimate this change would result in an increase of 83 in the DOC population in FY 2006-07 and an increase of 188 in the DOC population in FY 2011-12.

Fiscal Year	Change in Prison Population	Change in Parole Population
FY 1996-97	0	0
FY 1997-98	0	0
FY 1998-99	0	0
FY 1999-00	2	-2
FY 2000-01	9	-8
FY 2001-02	15	-13

## VERSION 2

This version of truth in sentencing requires only those convicted of a *crime of violence under Section 16-11-309, C.R.S., as stated on the mittimus*, to serve 85 percent of their sentences. While there are many people convicted of violent offenses as defined by this statute, and many sentenced in accordance with its provisions, there are relatively few convictions or admissions to the DOC in which a Section 16-11-309, C.R.S., sentence is specified on the mittimus. We estimate this would impact 80 admissions to the DOC in FY 1996-97. The sentences of those convicted under this Section 16-11-309, C.R.S., tend to be long, so there would be little impact in the first five years after this change. Relatively few inmates convicted of Section 16-11-309, C.R.S., crimes of violence, as stated on the mittimus, committed after July 1, 1996, would be expected to be released from prison by FY 2001-02 under current law. Thus, requiring such offenders to serve 85 percent of their sentences would have little impact during the time frame for which a statutory appropriation must be made, increasing the prison population by 11 and decreasing the parole population by 9 by FY 2001-02. It should be noted that the impact of this change would grow significantly in the more distant future. We estimate this change would result in an increase of 57 in the DOC population in FY 2006-07 and an increase of 128 in the DOC population in FY 2011-12.

<b>Fiscal Year</b>	<b>Change in Prison Population</b>	<b>Change in Parole Population</b>
FY 1996-97	0	0
FY 1997-98	0	0
FY 1998-99	0	0
FY 1999-00	2	-2
FY 2000-01	6	-5
FY 2001-02	11	-9

### VERSION 3

This version of truth in sentencing requires *all those convicted of a crime of violence as defined by Section 16-11-309, C.R.S.*, to serve 100 percent of their sentences. This would apply to all offenders convicted of crimes defined as violent under said statute, and not merely those where such a conviction was actually stated on the mittimus. We estimate that this proposal would impact 1,004 admissions in FY 1996-97, growing approximately four percent annually. There is a substantial impact within the five-year statutory appropriation period because this population includes a significant number of class 4 and class 5 offenders. Many class 4 and class 5 offenders admitted for crimes committed after July 1, 1996, are expected to be released from prison within five years. If required to serve 100 percent of their sentences, those offenders will be remaining in prison longer, resulting in an increase of 543 to the prison population by FY 2001-02 and a decrease in the parole population of 440. It should be noted that the impact of this change would grow significantly in the more distant future. We estimate this change would result in an increase of 1,459 in the DOC population in FY 2006-07 and an increase of 2,529 in the DOC population in FY 2011-12.

Fiscal Year	Change in Prison Population	Change in Parole Population
FY 1996-97	1	-1
FY 1997-98	31	-30
FY 1998-99	128	-125
FY 1999-00	250	-229
FY 2000-01	405	-364
FY 2001-02	543	-440

## VERSION 4

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This version would impact the same population as version 3, but would only require those convicted of a *crime of violence as defined by Section 16-11-309, C.R.S.*, to serve 85 percent of their sentences. Since the additional length of incarceration would not be as great as version 3 (85 percent of their sentences versus 100 percent in version 3), the impact on the prison population would also be less than in version 3. The prison population would increase by 360 and the parole population would decrease by 324 by FY 2001-02. It should be noted that the impact of this change would grow significantly in the more distant future. We estimate this change would result in an increase of 846 in the DOC population in FY 2006-07 and an increase of 1,430 in the DOC population in FY 2011-12.

Fiscal Year	Change in Prison Population	Change in Parole Population
FY 1996-97	1	-1
FY 1997-98	25	-22
FY 1998-99	107	-94
FY 1999-00	192	-172
FY 2000-01	286	-244
FY 2001-02	360	-324

## VERSION 5

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This version of truth in sentencing would require *all felony class 2 offenders* to serve *100 percent* of their sentence. This version would only apply to class 2 offenders, almost all of whom would be considered violent offenders. This change was the amended version of House Bill 95-1185. It is estimated to impact 94 admissions in FY 1996-97, growing about four percent per year after that. There is very little impact within the five-year period because almost all felony class 2 offenders are expected to remain in prison for at least four years under current conditions. The prison population would increase by 5 and the parole population would decrease by 5 by FY 2001-02 if this proposal is adopted. It should be noted that the impact of this change would grow significantly in the more distant future. We estimate this change would result in an increase of 63 in the DOC population in FY 2006-07 and an increase of 191 in the DOC population in FY 2011-12. It should be noted that the impact of this change would grow significantly in the more distant future.

Fiscal Year	Change in Prison Population	Change in Parole Population
FY 1996-97	0	0
FY 1997-98	0	0
FY 1998-99	0	0
FY 1999-00	0	0
FY 2000-01	3	-3
FY 2001-02	5	-5



## VERSION 6

This version of truth in sentencing would require those convicted of a *crime of violence as defined by Section 16-11-309, C.R.S., simple robbery, manslaughter, and crimes against children*, to serve 85 percent of their sentences. This version of truth in sentencing was introduced as House Bill 95-1066. It attempts to meet the provisions of the 1994 federal crime bill, thus enabling Colorado to receive the federal prison building funds. We estimate this change would impact 1,118 admissions to the DOC in FY 1996-97, growing about four percent annually. The number of entering inmates is somewhat larger than in previous versions because this proposal includes additional crimes against persons that are not included in Section 16-11-309, C.R.S., such as simple robbery, manslaughter, and child abuse. Some of the violent crimes, or attempts at those crimes, included in this definition are class 4, class 5, or class 6 felonies with sentences of one to eight years. Many such inmates admitted for crimes committed after July 1, 1996, would be expected to be released within the five-year statutory appropriation period under current law. This change would require them to serve more of their sentences and, thus, raise the prison population by 415 by FY 2001-02 and decrease the parole population by 366 by said date. It should be noted that the impact of this change would grow significantly in the more distant future. We estimate this change would result in an increase of 910 in the DOC population in FY 2006-07 and an increase of 1,578 in the DOC population in FY 2011-12.

Fiscal Year	Change in Prison Population	Change in Parole Population
FY 1996-97	1	-1
FY 1997-98	29	-24
FY 1998-99	117	-105
FY 1999-00	214	-190
FY 2000-01	320	-276
FY 2001-02	415	-366

## VERSION 7

This version of truth in sentencing would require those convicted of *murder, robbery, first degree assault, non-negligent manslaughter, and first degree sexual assault* to serve 85 percent of their sentences. This was the version that remained after House Bill 95-1066 was amended to narrow its scope to only the most-serious violent crimes. This proposal affects much fewer people than the original version of the bill and excludes most of those with relatively short sentences. We estimate that 395 admissions in FY 1996-97, growing at four percent annually, would be impacted by this change. They would all be class 2, class 3, and class 4 felons, most of whom receive longer sentences than felony class 5 and 6 offenders. Therefore, the impact of this version of truth in sentencing is far less than in version 6, increasing the prison population by 120 by FY 2001-02. It should be noted that the impact of this change would grow significantly in the more distant future. We estimate this change would result in an increase of 446 in the DOC population in FY 2006-07 and an increase of 937 in the DOC population in FY 2011-12.

Fiscal Year	Change in Prison Population	Change in Parole Population
FY 1996-97	0	0
FY 1997-98	2	-2
FY 1998-99	18	-18
FY 1999-00	49	-49
FY 2000-01	77	-69
FY 2001-02	120	-105

## VERSION 8

This version of truth in sentencing *eliminates earned time for those incarcerated for crimes against persons, defined as those convicted of a crime of violence under Section 16-11-309, C.R.S., simple robbery, manslaughter, and crimes against children.* We estimate 1,118 admissions in FY 1996-97 would meet these criteria, and this figure would increase at a four percent annual rate. Eliminating earned time would postpone the earliest possible parole eligibility date from 37.5 percent of the sentence to 50 percent of the sentence. Offenders would thus serve 50 to 100 percent of their sentences, depending on the Parole Board's release decisions.

The majority of violent offenders currently serve more than 50 percent of their sentence, so the impact is largely determined by the way in which the Parole Board responds. We estimate that the median release date for violent offenders is roughly halfway between the parole eligibility date (around 40 percent of the original sentence) and the sentence discharge date (around 80 percent of the original sentence for most offenders). This median is consistent with the estimated 60 percent of sentence served by violent offenders on average. Assuming the Parole Board would, in its decisions, adjust upward the median length of stay to the new midpoint between the parole eligibility date (50 percent of the sentence) and the sentence discharge date (100 percent of the sentence), the new median and average would be around 75 percent of sentence served. This analysis is based on an estimated rise from an average of 60 percent of sentence served to an average of 75 percent served on the part of violent offenders. Thus, the prison population would rise by 270 and the parole population would decrease by 220 by FY 2001-02. It should be noted that the impact of this change would grow significantly in the more distant future. We estimate this change would result in an increase of 645 in the DOC population in FY 2006-07 and an increase of 1,072 in the DOC population in FY 2011-12.

<b>Fiscal Year</b>	<b>Change in Prison Population</b>	<b>Change in Parole Population</b>
FY 1996-97	1	-1
FY 1997-98	20	-16
FY 1998-99	69	-57
FY 1999-00	126	-110
FY 2000-01	209	-159
FY 2001-02	270	-220

## VERSION 9

This version of truth in sentencing requires those *incarcerated for crimes against persons, defined as those convicted of a crime of violence under Section 16-11-309, C.R.S., simple robbery, manslaughter, and crimes against children*, to serve 75 percent of their sentences, less earned time, before becoming eligible for parole. Currently, this threshold is 50 percent less earned time for all offenders except violent offenders with prior convictions for violent offenses, for whom it is 75 percent of sentence less earned time. We estimate that 1,118 admissions in FY 1996-97 would meet these criteria, and this would increase at a four percent annual rate thereafter. Requiring violent offenders to serve 75 percent of their sentences less earned time would push the earliest possible parole eligibility date from 37.5 percent to 57.8 percent of the original sentence. It would leave conditions unchanged for violent offenders who have previous convictions for violent offenses.

The majority of violent offenders currently serve more than 50 percent of their sentence, so the impact is largely determined by the way in which the Parole Board responds. Since, on average, inmates receive 80 percent of the earned time for which they are eligible, it is estimated that most inmates would serve between 60 percent and 85 percent of their sentences under the conditions of this proposal. We estimate that the median release date for violent offenders is roughly halfway between the parole eligibility date (around 40 percent of the sentence) and the sentence discharge date (around 80 percent of the sentence for most offenders). This median is consistent with the estimated 60 percent of the sentence served by most violent offenders. Assuming the parole board would, in its decisions, adjust upward the median length of stay to the new midpoint between the parole eligibility date (approximately 60 percent of sentence on average) and the sentence discharge date (approximately 82 percent of sentence on average), the new median would be 71 percent of sentence received. This analysis is based on an estimated rise from 60 percent of sentence served, on average, to 71 percent served, on average, by violent offenders. The prison population would increase by 196 by FY 2001-02. It should be noted that the impact of this change would grow significantly in the more distant future. We estimate this change would result in an increase of 482 in the DOC population in FY 2006-07 and an increase of 786 in the DOC population in FY 2011-12.

<b>Fiscal Year</b>	<b>Change in Prison Population</b>	<b>Change in Parole Population</b>
FY 1996-97	1	-1
FY 1997-98	12	-10
FY 1998-99	52	-46
FY 1999-00	101	-80
FY 2000-01	151	-126
FY 2001-02	196	-170

This version of truth in sentencing *eliminates parole eligibility for those convicted of crimes against persons, defined as those convicted of a crime of violence as stipulated by Section 16-11-309, C.R.S., simple robbery, manslaughter, and crimes against children, but continues to allow such offenders to receive earned time while in prison.* Violent offenders would still receive mandatory parole after release, but would not be eligible for parole until serving their entire sentence less earned time. The earliest possible release to parole from prison for violent offenders would rise from 37.5 percent to 75 percent of the sentence for those receiving maximum allowable earned time. Since inmates receive only about 80 percent of maximum earned time on average, this change would raise the average percent of the sentence served by those convicted of crimes against persons to approximately 82 percent. This is estimated to be slightly higher than 80 percent because many inmates have substantial jail credit time when admitted to the DOC, time during which they are not eligible to receive earned time. This analysis is based on the average length of stay for violent offenders rising to 82 percent of the original sentence. By FY 2001-02, the prison population would increase by 373. It should be noted that the impact of this change would grow significantly in the more distant future. We estimate this change would result in an increase of 814 in the DOC population in FY 2006-07 and an increase of 1,409 in the DOC population in FY 2011-12.

Fiscal Year	Change in Prison Population	Change in Parole Population
FY 1996-97	1	-1
FY 1997-98	27	-22
FY 1998-99	107	-95
FY 1999-00	193	-166
FY 2000-01	287	-244
FY 2001-02	373	-326

This version of truth in sentencing requires *those convicted of crimes against persons, defined as those convicted of a crime of violence under Section 16-11-309, C.R.S., simple robbery, manslaughter, and crimes against children*, to serve 75 percent of the original sentence before becoming eligible for parole. It also eliminates earned time for violent offenders. The earliest possible release to parole would be after serving 75 percent of the sentence, and sentence discharge would not occur until serving 100 percent of the sentence. Once again, the average sentence length of violent convicts at time of release would depend on the Parole Board's discretion. Maintaining our assumption that the average length of stay at time of release would approximate the midpoint between the parole eligibility date and the sentence discharge date, this would result in an estimated average 87.5 percent of the sentence being served for violent offenders. By FY 2001-02, the prison population would increase by 473. It should be noted that the impact of this change would grow significantly in the more distant future. We estimate this change would result in an increase of 1,002 in the DOC population in FY 2006-07 and an increase of 1,711 in the DOC population in FY 2011-12.

<b>Fiscal Year</b>	<b>Change in Prison Population</b>	<b>Change in Parole Population</b>
FY 1996-97	1	-1
FY 1997-98	31	-21
FY 1998-99	131	-113
FY 1999-00	239	-211
FY 2000-01	356	-304
FY 2001-02	473	-406